

**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
November 28, 2005 - 7:00 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

PUBLIC HEARING:

1. 2006 Proposed Budget.
2. City's Six-Year Transportation Improvement Plan 2006-2011.
3. Wetland and Critical Area Regulation Revision.
4. Vacation of a portion of Hall Street.

CONSENT AGENDA:

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

1. Approval of the Minutes of City Council Meeting of November 14, 2005.
2. Correspondence / Proclamations: a) Recognition Certification – George Williams b) Cascadia Discovery Institute.
3. Stormwater Maintenance Agreement(s) – Olympic Property Group.
4. Stormwater Maintenance Agreement – Venture Bank.
5. Approval of Payment of Bills for November 28, 2005:
Checks #48770 through #48873 in the amount of \$526,679.16.

OLD BUSINESS:

1. Second Reading of Ordinance - 2006 Proposed Budget.

NEW BUSINESS:

1. Proposed Annexation – Resource Properties (ANX 05-910).
2. First Reading of Ordinance – Clarifying the Requirements for Sewer Hook-ups.
3. First Reading of Ordinance - Wetland and Critical Area Regulation Revision.
4. First Reading of Ordinance – Hall Street Vacation.
5. First Reading of Ordinance – Increasing Monthly Water Rates.
6. First Reading of Ordinance – Increasing Monthly Sewer Rates.
7. Resolution Adopting the Six-Year Transportation Improvement Plan 2006-2011.

STAFF REPORT:

1. Dick Bower, Building Official/Fire Marshal – Emergency Management and Planning.

PUBLIC COMMENT:

COUNCIL COMMENTS / MAYOR'S REPORT: Make a Difference Day.

ANNOUNCEMENT OF OTHER MEETINGS:

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

ADJOURN:

GIG HARBOR CITY COUNCIL MEETING OF NOVEMBER 14, 2005

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

CALL TO ORDER: 7:03 p.m.

PLEDGE OF ALLEGIANCE:

PUBLIC HEARING:

1. 2006 Proposed Budget. Mayor Wilbert opened the public hearing at 7:03 p.m. David Rodenbach, Finance Director, gave a brief overview of the proposed 2006 Budget.

No one signed up to speak at the public hearing and the Mayor closed the hearing at 7:04 p.m.

CONSENT AGENDA:

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

1. Approval of the Minutes of City Council Meeting of October 24, 2005.
2. Correspondence / Proclamations: a) Gig Harbor Waterfront Retail & Restaurant Assoc.
3. Resolution No. 656 Adopting Amendments to Pierce County Interlocal Agreement.
4. Holiday Lighting Festival Contracts.
5. Municipal Judge Contract Renewal.
6. Employees' and Supervisory Employees' Guild Contracts.
7. City-wide Traffic Forecasting Model - Contract Amendment.
8. Eddon Boat Netshed Re-Roofing Contract.
9. Franklin Avenue Stormwater Improvement Project - Survey Staking.
10. Grandview Forest Tank "B" Repainting Project – Materials Testing Services.
11. Skansie Brothers Park DNR Aquatic Lease Agreement.
12. Liquor License Renewals: The Harbor Kitchen; Old Harbor Saloon; and Terracciano's.
13. Approval of Payment of Bills for November 14, 2005:
Checks #48614 through #48769 in the amount of \$474,204.71.
14. Approval of Payroll for the month of October:
Checks #3994 through #4028 and direct deposit entries in the amount of \$250,226.33.

Councilmember Franich asked that item number seven, City-wide Traffic Forecasting Model Contract Amendment, be moved to new business.

Mayor Wilbert pointed out that the Municipal Court Judge contract was on the Consent Agenda for renewal, and thanked Judge Dunn for his service.

MOTION: Move to approve the Consent Agenda as amended.
Picinich / Ruffo – unanimously approved.

OLD BUSINESS:

1. Second Reading of Ordinance - 2005 Property Tax Levy. David Rodenbach presented this ordinance that sets the 2005 property tax levy for collection in 2006. He offered to answer questions.

MOTION: Move to adopt Ordinance No. 1020 as presented.
Ruffo / Picinich – unanimously approved.

2. Second Reading of Ordinance – Wright Annexation (ANX 04-02). John Vodopich, Community Development Director, recommended adoption of this ordinance annexing approximately 8.62 acres of property northwest of the intersection of Hunt Street and 46th Avenue Northwest and establishing the zoning as R-1.

MOTION: Move to adopt Ordinance No. 1021 as presented.
Picinich / Ruffo – unanimously approved.

NEW BUSINESS:

1. First Reading of Ordinance – 2006 Proposed Budget. David Rodenbach said that he had nothing to add from the information given during the public hearing, and offered to answer questions.

Councilmember Franich said that during the Budget Work sessions, a dedicated street fund was discussed, but was never formally initiated. Councilmembers and staff discussed the best method in which to implement this on-going goal to earmark funds for road improvements. Council directed staff to amend the 2006 Budget to articulate both a goal and an objective to develop a Major Streets Projects Savings Program.

Councilmember Franich then addressed the staff adjustments articulated in the draft budget. He asked whether it would be possible to postpone hiring any new positions until February 1st, due to letter from the Mayor-elect, Chuck Hunter, voicing his concern over hiring.

Mark Hoppen, City Administrator, said that no hiring would be done until the new Mayor had an opportunity to review the process.

Councilmember Young said that he was concerned about delaying the hiring of help in the Planning Department, as delays in permitting is one of the chief complaints that come from the public.

Mayor Wilbert said that when Mayor-elect Hunter returns on the 20th of November, that he will begin orientation and be given input into any agendas.

Councilmember Young recommended eliminating the city-wide charrette until more money could be identified to do it right. He said that the downtown area had been done, and that \$75,000 would not be enough to do the rest of the city.

MOTION: Move to direct staff to bring back the draft 2006 Budget with the charrette lined out.
Young / Ruffo –

Councilmember Ekberg recommended leaving in the \$75,000 and adding more to it in the next year's budget cycle. Mark Hoppen suggested setting a goal in the 2006-2007 Budget to do it then.

AMENDED MOTION: Move to direct staff to bring back the draft 2006 Budget with the charrette lined out and to move the \$75,000 into the Ending Fund Balance.
Young / Ruffo – unanimously approved.

3. City-wide Traffic Forecasting Model - Contract Amendment. (Moved from Consent Agenda).

Councilmember Franich said that he agreed that the city needs to find the reason for traffic problems, but voiced his concern that the traffic forecasting modeling is just one tool that cannot take in all the affects of traffic congestion. He said that \$49,000 is a lot of money and that he hopes to get value from this.

Councilmember Young agreed that it is only one tool, but suggested that many of the current traffic problems in the Gig Harbor North area might have been avoided if the city would have had a base-line comparison such as this in place at the time of development.

MOTION: Move to authorize the contract amended with David Evans and Associates, Inc. for the Gig Harbor North Traffic Mitigation Plan in the amount not to exceed \$49,964.00.
Ekberg / Ruffo – unanimously approved.

STAFF REPORT:

1. Dick Bower, Building Official/Fire Marshal – Third Quarter 2005 Building Permit Data. No verbal report given.

2. Mike Davis, Chief of Police – GHPD Monthly Report for October. Chief Davis offered to answer questions on the report.

PUBLIC COMMENT: None.

COUNCIL COMMENTS / MAYOR'S REPORT: Emergency Preparedness for Families and Neighborhoods.

Mayor Wilbert stressed the need to refocus on emergency preparedness for families and neighborhoods. She gave an overview of her efforts to partner with PEP-C and PC-

NET to bring emergency preparedness to our neighborhoods. She encouraged others to become involved in these programs.

ANNOUNCEMENT OF OTHER MEETINGS:

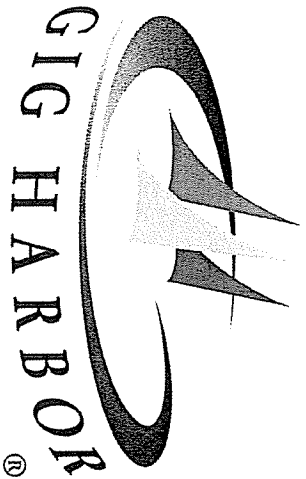
ADJOURN:

MOTION: Move to adjourn at 7:52 p.m.
Franich / Ekberg – unanimously approved.

CD recorder utilized:
Disk #1 Tracks 1 – 18.

Gretchen A. Wilbert, Mayor

Molly M. Towslee, City Clerk



"THE MARITIME CITY"

CERTIFICATE OF APPRECIATION

In Recognition of

George Wilkins

Thank you for excellence in supervising the Court's community service program and maintaining the Civic Center grounds.

Gretchen Wilbert
Mayor Gretchen Wilbert

Michael A. Dunn
Judge Michael A. Dunn

Towslee, Molly

From: Annelise Davis [adavis@discovery.org]
Sent: Thursday, November 10, 2005 3:43 PM
To: Bruce Agnew; South Sound Passenger Ferry
Subject: South Sound Passenger Ferry Community Meeting



Meeting Notice:

The Des Moines, Gig Harbor, Tacoma 'Ferry-Transit-Airport Connector' grant application has been submitted to the state with ten letters of support. Great job everyone!!

Now we need to rally legislative and community leaders in the South Sound to convince the Legislature to fund the project because they ultimately make the decision.

It is time to meet and explain the details of the project to a broader group, develop a strategy to gain legislative support for the feasibility study and ultimately the pilot project.

Please join us **Friday, December 2nd from 12:00 to 1:30 pm** in Tacoma to discuss our next steps. Please forward this email on to others who may be interested in this project.

The meeting will be held in the **Simpson Community Room at the Tacoma Chamber of Commerce**. Go to <http://www.tacomachamber.org/page.asp?view=30> for directions to the Chamber.

An informal lunch will be served. Cost is \$10. To RSVP, contact Events Director Annelise Davis, at adavis@discovery.org or 206-292-0401 ext. 153 no later than Thursday, December 1st.

For questions about this project contact Bruce Agnew at bagnew@discovery.org or call 206-292-0401, ext. 113.



"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E.
CITY ENGINEER
SUBJECT: STORMWATER FACILITIES MAINTENANCE AGREEMENT(S) AND
RESTRICTIVE COVENANT - OLYMPIC PROPERTIES GROUP, LLC
DATE: NOVEMBER 28, 2005

INTRODUCTION/BACKGROUND

The City has required private on-site storm water detention facilities to be constructed in conjunction with the Harbor Hill Development Project south and west storm control facilities located on Parcel Nos. 0222311008 and 0222312019. As specified in Section 14.20.530, Gig Harbor Municipal Code (GHMC), a maintenance covenant is required for all privately maintained drainage facilities, as well as a requirement that the covenant be recorded with the property. This allows the City a nonexclusive right-of-entry onto those portions of the property immediately adjacent to the storm water facilities for the purpose of inspection of the facilities, and further requires that the property owner perform their own regular inspection and maintenance of the facilities at the property owner's expense.

The City's standard Storm Water Facilities Maintenance Agreement and Restrictive Covenant has been drafted and approved by Carol Morris, City Attorney.

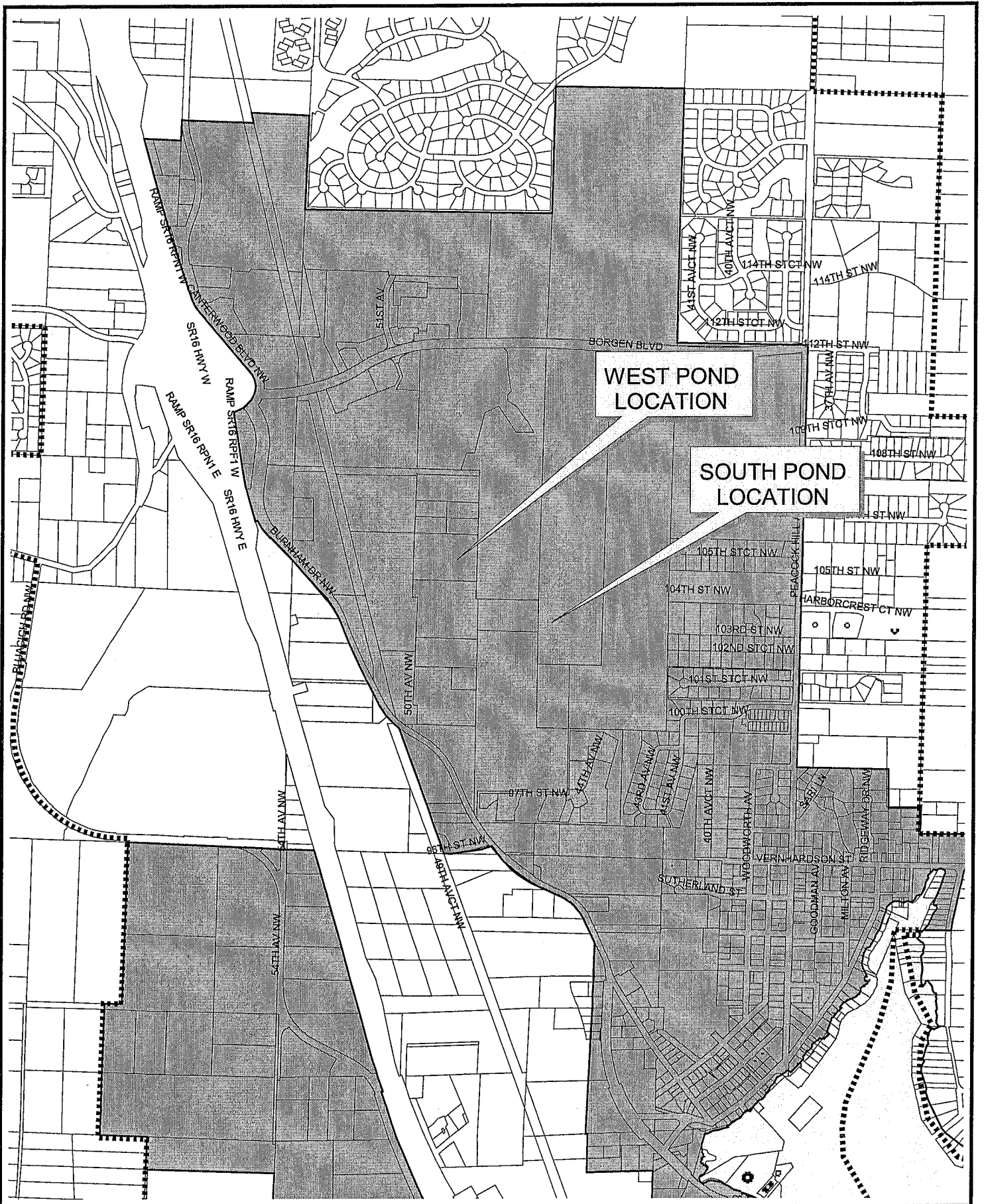
Council approval of these agreements is requested.

FISCAL CONSIDERATIONS

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

RECOMMENDATION

I recommend that the Council approve the agreements as presented.



HARBOR HILL
 WEST AND SOUTH STORM DRAINAGE PONDS
 VICINITY MAP

AFTER RECORDING, RETURN TO:

**The City of Gig Harbor
Attn: City Clerk
3510 Grandview Street
Gig Harbor, W A 98335**

Document Title: **STORM WATER FACILITIES MAINTENANCE
AGREEMENT AND RESTRICTIVE COVENANT**

Grantor: Olympic Property Group, LLC

Grantee: City of Gig Harbor

Legal Description: A Portion of the northwest quarter of Section
31, Township 22 North, Range 2 East, W.M.,
located in Pierce County, Washington.

The complete legal description may be found on page 8 of
the document.

Property Tax Parcel No.: 0222312019 (unplatted)

Reference No. of Documents Assigned or Released: _____

**STORM WATER FACILITIES MAINTENANCE AGREEMENT
AND RESTRICTIVE COVENANT**

This Storm Water Facilities Maintenance Agreement and Restrictive Covenant is made this ____ day of _____, 2005, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Olympic Property Group, LLC residing at 19245 Tenth Avenue Northeast, Poulsbo, WA 98370 (hereinafter "Owner").

RECITALS

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

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

WHEREAS, such drainage system is described and shown on a construction drawing prepared by the engineering firm of David Evans and Associates, Inc. on June 30, 2005 (hereinafter the "Drainage System Drawing"), for the Owner's Property, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference; and

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

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

TERMS

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

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

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

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

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

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

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

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

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

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

To the Owner:
Olympic Property Group, LLC
19245 Tenth Avenue NE
Poulsbo, WA 98370

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

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

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

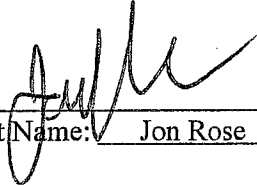
Section 13. Integration. This Maintenance Agreement and Covenant constitutes the entire agreement between the parties on this subject matter, and supersedes all prior discussions, negotiations, and all other agreements on the same subject matter, whether oral or written.

IN WITNESS WHEREOF, the parties have caused this Maintenance Agreement and Covenant to be executed this ___ day of _____, 2005.

THE CITY OF GIG HARBOR

OWNER

By: _____
Its Mayor

By: 
Print Name: Jon Rose

ATTEST:

City Clerk

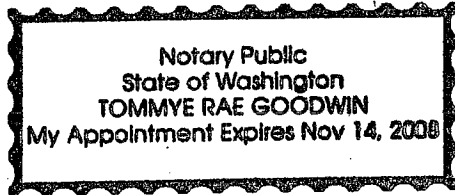
APPROVED AS TO FORM:

City Attorney

STATE OF WASHINGTON)
)
) ss.
COUNTY OF Kitsap)
)
)
COUNTY OF ~~PIERCE~~

I certify that I know or have satisfactory evidence that Jon Rose 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 President 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: 11-18-05



Tommye Rae Goodwin
Notary Public in and for the
State of Washington,
Title: Notary Public
My appointment expires: Nov 14, 2008
Tommye Rae Goodwin

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

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: _____

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

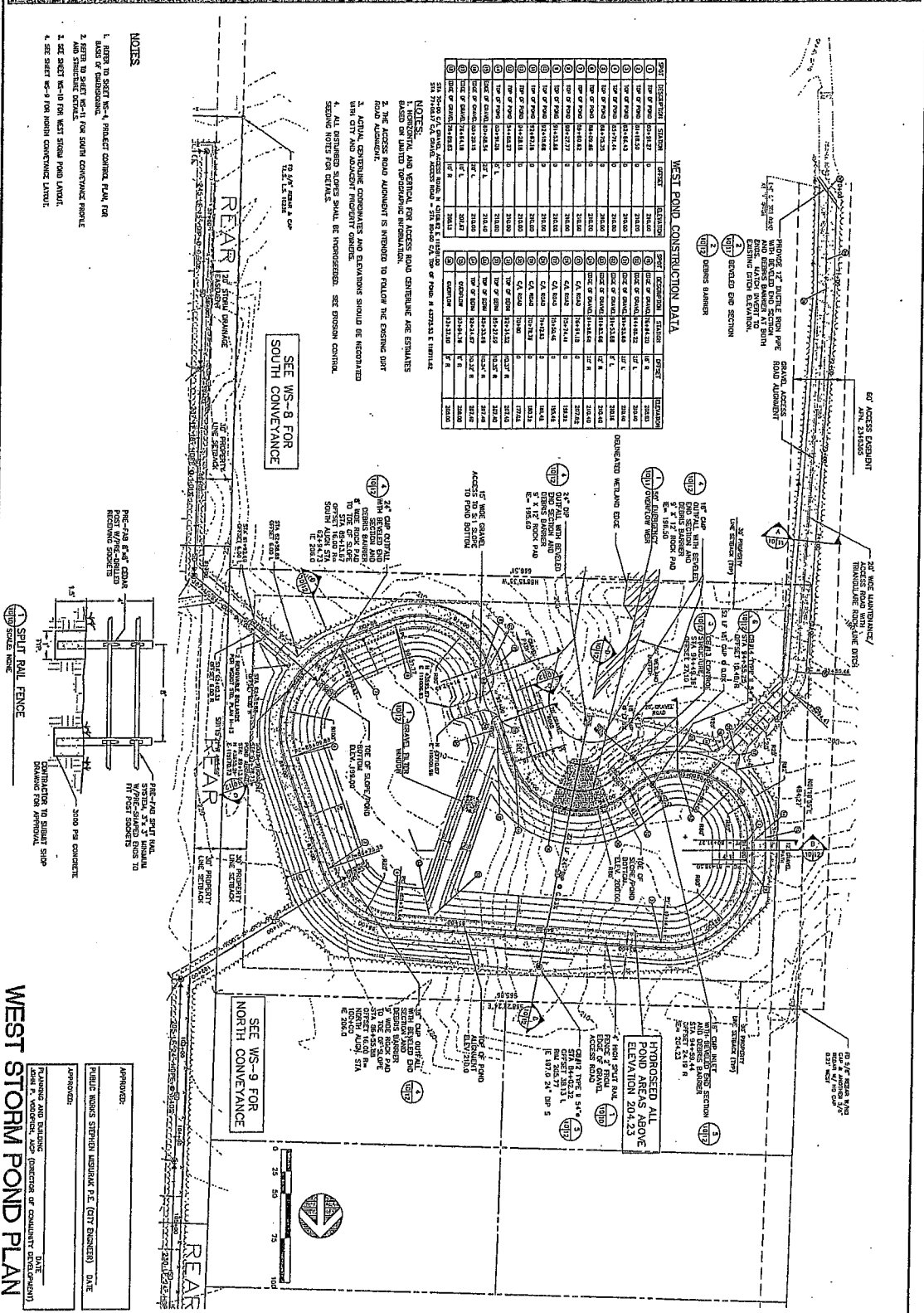
EXHIBIT A

**DESCRIPTION OF THE WEST STORM POND EASEMENT
AREA**

THE WEST HALF OF THE SOUTHEAST QUARTER OF THE
NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH,
RANGE 2 EAST, W.M., CITY OF GIG HARBOR, PIERCE COUNTY,
WASHINGTON, EXCLUDING THE NORTH 660 FEET THEREOF AND
ALSO EXCLUDING THE SOUTH 180 FEET THEREOF.

PIERCE COUNTY TAX LOT #0222312019.

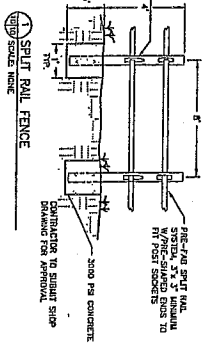
EXHIBIT B



WEST POND CONSTRUCTION DATA

POST	STATION	OFFSET	DESCRIPTION	STATION	OFFSET	DESCRIPTION
1	10+00	0	TOP OF ROAD	10+00	0	TOP OF ROAD
2	10+00	10	EDGE OF ROAD	10+00	10	EDGE OF ROAD
3	10+00	20	EDGE OF ROAD	10+00	20	EDGE OF ROAD
4	10+00	30	EDGE OF ROAD	10+00	30	EDGE OF ROAD
5	10+00	40	EDGE OF ROAD	10+00	40	EDGE OF ROAD
6	10+00	50	EDGE OF ROAD	10+00	50	EDGE OF ROAD
7	10+00	60	EDGE OF ROAD	10+00	60	EDGE OF ROAD
8	10+00	70	EDGE OF ROAD	10+00	70	EDGE OF ROAD
9	10+00	80	EDGE OF ROAD	10+00	80	EDGE OF ROAD
10	10+00	90	EDGE OF ROAD	10+00	90	EDGE OF ROAD
11	10+00	100	EDGE OF ROAD	10+00	100	EDGE OF ROAD
12	10+00	110	EDGE OF ROAD	10+00	110	EDGE OF ROAD
13	10+00	120	EDGE OF ROAD	10+00	120	EDGE OF ROAD
14	10+00	130	EDGE OF ROAD	10+00	130	EDGE OF ROAD
15	10+00	140	EDGE OF ROAD	10+00	140	EDGE OF ROAD
16	10+00	150	EDGE OF ROAD	10+00	150	EDGE OF ROAD
17	10+00	160	EDGE OF ROAD	10+00	160	EDGE OF ROAD
18	10+00	170	EDGE OF ROAD	10+00	170	EDGE OF ROAD
19	10+00	180	EDGE OF ROAD	10+00	180	EDGE OF ROAD
20	10+00	190	EDGE OF ROAD	10+00	190	EDGE OF ROAD
21	10+00	200	EDGE OF ROAD	10+00	200	EDGE OF ROAD
22	10+00	210	EDGE OF ROAD	10+00	210	EDGE OF ROAD
23	10+00	220	EDGE OF ROAD	10+00	220	EDGE OF ROAD
24	10+00	230	EDGE OF ROAD	10+00	230	EDGE OF ROAD
25	10+00	240	EDGE OF ROAD	10+00	240	EDGE OF ROAD
26	10+00	250	EDGE OF ROAD	10+00	250	EDGE OF ROAD
27	10+00	260	EDGE OF ROAD	10+00	260	EDGE OF ROAD
28	10+00	270	EDGE OF ROAD	10+00	270	EDGE OF ROAD
29	10+00	280	EDGE OF ROAD	10+00	280	EDGE OF ROAD
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32	10+00	310	EDGE OF ROAD	10+00	310	EDGE OF ROAD
33	10+00	320	EDGE OF ROAD	10+00	320	EDGE OF ROAD
34	10+00	330	EDGE OF ROAD	10+00	330	EDGE OF ROAD
35	10+00	340	EDGE OF ROAD	10+00	340	EDGE OF ROAD
36	10+00	350	EDGE OF ROAD	10+00	350	EDGE OF ROAD
37	10+00	360	EDGE OF ROAD	10+00	360	EDGE OF ROAD
38	10+00	370	EDGE OF ROAD	10+00	370	EDGE OF ROAD
39	10+00	380	EDGE OF ROAD	10+00	380	EDGE OF ROAD
40	10+00	390	EDGE OF ROAD	10+00	390	EDGE OF ROAD
41	10+00	400	EDGE OF ROAD	10+00	400	EDGE OF ROAD
42	10+00	410	EDGE OF ROAD	10+00	410	EDGE OF ROAD
43	10+00	420	EDGE OF ROAD	10+00	420	EDGE OF ROAD
44	10+00	430	EDGE OF ROAD	10+00	430	EDGE OF ROAD
45	10+00	440	EDGE OF ROAD	10+00	440	EDGE OF ROAD
46	10+00	450	EDGE OF ROAD	10+00	450	EDGE OF ROAD
47	10+00	460	EDGE OF ROAD	10+00	460	EDGE OF ROAD
48	10+00	470	EDGE OF ROAD	10+00	470	EDGE OF ROAD
49	10+00	480	EDGE OF ROAD	10+00	480	EDGE OF ROAD
50	10+00	490	EDGE OF ROAD	10+00	490	EDGE OF ROAD
51	10+00	500	EDGE OF ROAD	10+00	500	EDGE OF ROAD
52	10+00	510	EDGE OF ROAD	10+00	510	EDGE OF ROAD
53	10+00	520	EDGE OF ROAD	10+00	520	EDGE OF ROAD
54	10+00	530	EDGE OF ROAD	10+00	530	EDGE OF ROAD
55	10+00	540	EDGE OF ROAD	10+00	540	EDGE OF ROAD
56	10+00	550	EDGE OF ROAD	10+00	550	EDGE OF ROAD
57	10+00	560	EDGE OF ROAD	10+00	560	EDGE OF ROAD
58	10+00	570	EDGE OF ROAD	10+00	570	EDGE OF ROAD
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61	10+00	600	EDGE OF ROAD	10+00	600	EDGE OF ROAD
62	10+00	610	EDGE OF ROAD	10+00	610	EDGE OF ROAD
63	10+00	620	EDGE OF ROAD	10+00	620	EDGE OF ROAD
64	10+00	630	EDGE OF ROAD	10+00	630	EDGE OF ROAD
65	10+00	640	EDGE OF ROAD	10+00	640	EDGE OF ROAD
66	10+00	650	EDGE OF ROAD	10+00	650	EDGE OF ROAD
67	10+00	660	EDGE OF ROAD	10+00	660	EDGE OF ROAD
68	10+00	670	EDGE OF ROAD	10+00	670	EDGE OF ROAD
69	10+00	680	EDGE OF ROAD	10+00	680	EDGE OF ROAD
70	10+00	690	EDGE OF ROAD	10+00	690	EDGE OF ROAD
71	10+00	700	EDGE OF ROAD	10+00	700	EDGE OF ROAD
72	10+00	710	EDGE OF ROAD	10+00	710	EDGE OF ROAD
73	10+00	720	EDGE OF ROAD	10+00	720	EDGE OF ROAD
74	10+00	730	EDGE OF ROAD	10+00	730	EDGE OF ROAD
75	10+00	740	EDGE OF ROAD	10+00	740	EDGE OF ROAD
76	10+00	750	EDGE OF ROAD	10+00	750	EDGE OF ROAD
77	10+00	760	EDGE OF ROAD	10+00	760	EDGE OF ROAD
78	10+00	770	EDGE OF ROAD	10+00	770	EDGE OF ROAD
79	10+00	780	EDGE OF ROAD	10+00	780	EDGE OF ROAD
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83	10+00	820	EDGE OF ROAD	10+00	820	EDGE OF ROAD
84	10+00	830	EDGE OF ROAD	10+00	830	EDGE OF ROAD
85	10+00	840	EDGE OF ROAD	10+00	840	EDGE OF ROAD
86	10+00	850	EDGE OF ROAD	10+00	850	EDGE OF ROAD
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90	10+00	890	EDGE OF ROAD	10+00	890	EDGE OF ROAD
91	10+00	900	EDGE OF ROAD	10+00	900	EDGE OF ROAD
92	10+00	910	EDGE OF ROAD	10+00	910	EDGE OF ROAD
93	10+00	920	EDGE OF ROAD	10+00	920	EDGE OF ROAD
94	10+00	930	EDGE OF ROAD	10+00	930	EDGE OF ROAD
95	10+00	940	EDGE OF ROAD	10+00	940	EDGE OF ROAD
96	10+00	950	EDGE OF ROAD	10+00	950	EDGE OF ROAD
97	10+00	960	EDGE OF ROAD	10+00	960	EDGE OF ROAD
98	10+00	970	EDGE OF ROAD	10+00	970	EDGE OF ROAD
99	10+00	980	EDGE OF ROAD	10+00	980	EDGE OF ROAD
100	10+00	990	EDGE OF ROAD	10+00	990	EDGE OF ROAD

- NOTES**
1. REFER TO SHEET WS-4, PROJECT CONTROL PLAN, FOR ALLOCATED EASEMENTS.
 2. REFER TO SHEET WS-11 FOR SOUTH CONVEYANCE PROFILE AND STRUCTURE DETAILS.
 3. SEE SHEET WS-10 FOR WEST STORM POND LAYOUT.
 4. SEE SHEET WS-9 FOR NORTH CONVEYANCE LAYOUT.



SEE WS-9 FOR NORTH CONVEYANCE

SEE WS-8 FOR SOUTH CONVEYANCE

WEST STORM POND PLAN

DATE: _____
 DRAWN BY: _____
 CHECKED BY: _____
 PROJECT NUMBER: _____
 SHEET NUMBER: _____

REVISIONS:

NO.	DATE	DESCRIPTION
1	11/15/03	ISSUED FOR PERMIT

DESIGNER: DAVID EVANS AND ASSOCIATES, INC.
PROJECT NUMBER: WS-10
SHEET NUMBER: 12

DAVID EVANS AND ASSOCIATES, INC.
 3700 Pacific Hwy, E.A.K., Suite 501
 Tacoma, Washington 98444
 Phone: 253.922.9760

HARBOR HILL WEST STORM CONTROL FACILITY
 OLYMPIC PROPERTY GROUP 19245 TENTH AVE.
 FOULDSO, WA 98370 360-394-0555

AFTER RECORDING, RETURN TO:

**The City of Gig Harbor
Attn: City Clerk
3510 Grandview Street
Gig Harbor, W A 98335**

Document Title: **STORM WATER FACILITIES MAINTENANCE
AGREEMENT AND RESTRICTIVE COVENANT**

Grantor: Olympic Property Group, LLC

Grantee: City of Gig Harbor

Legal Description: A Portion of the southeast quarter of Section
31, Township 22 North, Range 2 East, W.M.,
located in Pierce County, Washington.

The complete legal description may be found on page 8 of
the document.

Property Tax Parcel No.: 0222311008 (unplatted)

Reference No. of Documents Assigned or Released: _____

**STORM WATER FACILITIES MAINTENANCE AGREEMENT
AND RESTRICTIVE COVENANT**

This Storm Water Facilities Maintenance Agreement and Restrictive Covenant is made this ____ day of _____, 2005, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Olympic Property Group, LLC residing at 19245 Tenth Avenue Northeast, Poulsbo, WA 98370 (hereinafter "Owner").

RECITALS

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

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

WHEREAS, such drainage system is described and shown on a construction drawing prepared by the engineering firm of David Evans and Associates, Inc. on October 10, 2005 (hereinafter the "Drainage System Drawing"), for the Owner's Property, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference; and

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

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

TERMS

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

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

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

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

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

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

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

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

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

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

To the Owner:
Olympic Property Group, LLC
19245 Tenth Avenue NE
Poulsbo, WA 98370

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

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

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

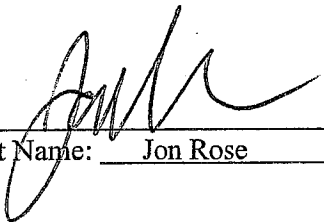
Section 13. Integration. This Maintenance Agreement and Covenant constitutes the entire agreement between the parties on this subject matter, and supersedes all prior discussions, negotiations, and all other agreements on the same subject matter, whether oral or written.

IN WITNESS WHEREOF, the parties have caused this Maintenance Agreement and Covenant to be executed this ___ day of _____, 2005.

THE CITY OF GIG HARBOR

OWNER

By: _____
Its Mayor

By: 
Print Name: Jon Rose

ATTEST:

City Clerk

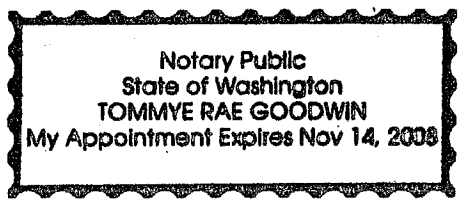
APPROVED AS TO FORM:

City Attorney

STATE OF WASHINGTON)
 Kitsap) ss.
COUNTY OF ~~PIERCE~~)

I certify that I know or have satisfactory evidence that Jon Rose 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 President 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: 11-18-05



Tommye Rae Goodwin
Notary Public in and for the
State of Washington,
Title: Notary Public
My appointment expires: NOV 14, 2008
Tommye Rae Goodwin

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

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: _____

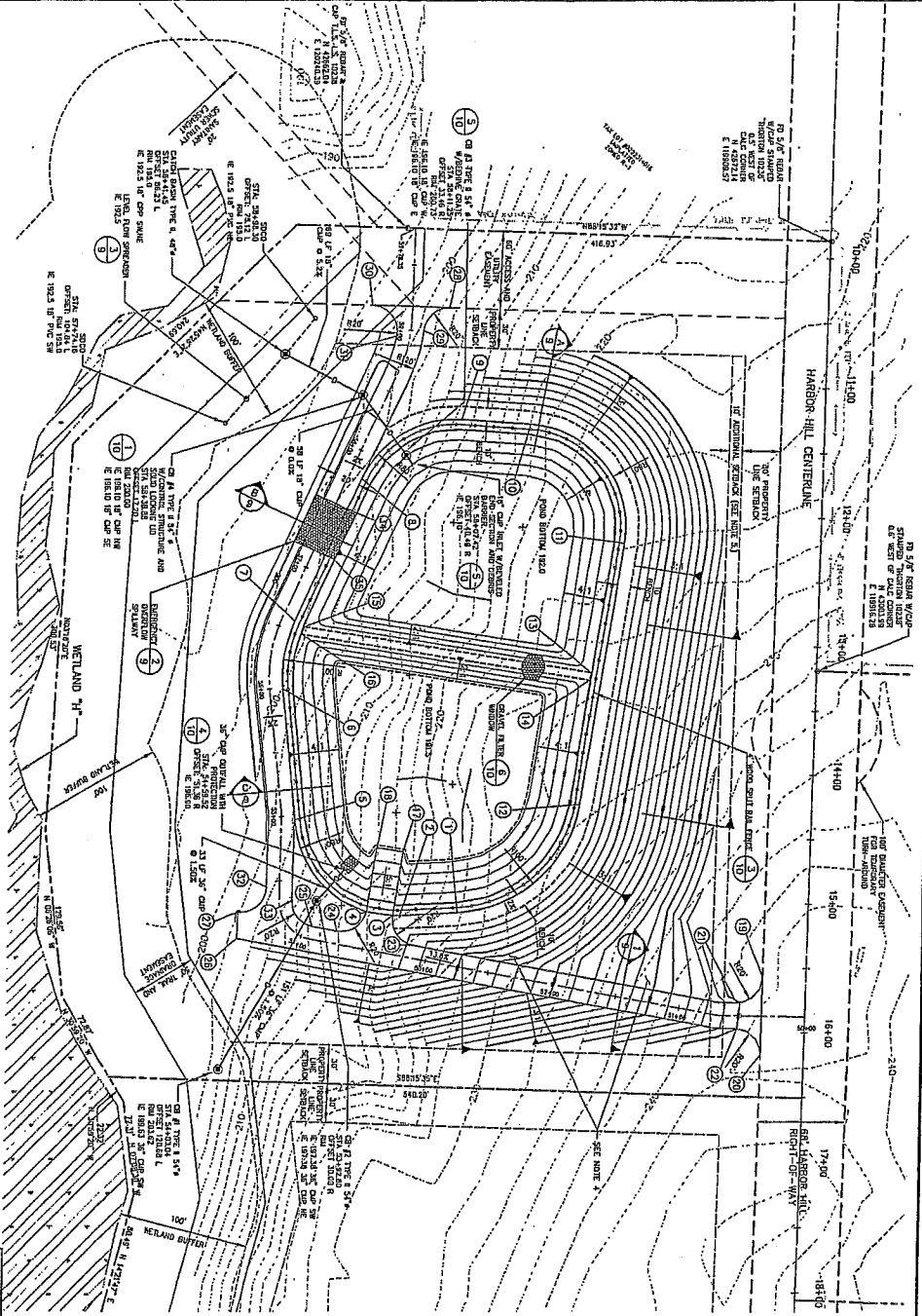
Notary Public in and for the
State of Washington,
Title: _____
My appointment expires: _____

EXHIBIT A

DESCRIPTION OF THE SOUTH STORM POND TRACT AREA

TRACT B OF THE RECORDED PLAT OF THE BUSINESS PARK AT HARBOR HILL,
LOCATED IN SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST, W.M., PIERCE
COUNTY, WASHINGTON.

EXHIBIT B



SOUTH STORM POND PLAN

- NOTES**
1. SEE SHEET S-7 FOR PROJECT CONTROL PLAN FOR THE FACILITY.
 2. GRADING FOR THIS POND SHALL RESULT IN A 2% TO 4% SLOPE TO THE RIGHT-OF-WAY.
 3. ALL DISTURBED AREAS SHALL BE REVEGETATED WITH APPROPRIATE PLANTING.
 4. 2% MAX. SLOPE IN DISTURBED AREAS.
 5. PROTECTION OF EXISTING TREES SHALL BE MAINTAINED TO THE MAXIMUM EXTENT POSSIBLE.
 6. EROSION CONTROL MEASURES SHALL BE INSTALLED AT THE TIME OF CONSTRUCTION.

POND CONSTRUCTION DATA

NO.	DESCRIPTION	AREA (SQ. FT.)	VOLUME (CU. YD.)
1	POD OF POND 1	1,200.0	1,200.0
2	POD OF POND 2	1,500.0	1,500.0
3	POD OF POND 3	1,800.0	1,800.0
4	POD OF POND 4	2,100.0	2,100.0
5	POD OF POND 5	2,400.0	2,400.0
6	POD OF POND 6	2,700.0	2,700.0
7	POD OF POND 7	3,000.0	3,000.0
8	POD OF POND 8	3,300.0	3,300.0
9	POD OF POND 9	3,600.0	3,600.0
10	POD OF POND 10	3,900.0	3,900.0
11	POD OF POND 11	4,200.0	4,200.0
12	POD OF POND 12	4,500.0	4,500.0
13	POD OF POND 13	4,800.0	4,800.0
14	POD OF POND 14	5,100.0	5,100.0
15	POD OF POND 15	5,400.0	5,400.0
16	POD OF POND 16	5,700.0	5,700.0
17	POD OF POND 17	6,000.0	6,000.0
18	POD OF POND 18	6,300.0	6,300.0
19	POD OF POND 19	6,600.0	6,600.0
20	POD OF POND 20	6,900.0	6,900.0
21	POD OF POND 21	7,200.0	7,200.0
22	POD OF POND 22	7,500.0	7,500.0
23	POD OF POND 23	7,800.0	7,800.0
24	POD OF POND 24	8,100.0	8,100.0
25	POD OF POND 25	8,400.0	8,400.0
26	POD OF POND 26	8,700.0	8,700.0
27	POD OF POND 27	9,000.0	9,000.0
28	POD OF POND 28	9,300.0	9,300.0
29	POD OF POND 29	9,600.0	9,600.0
30	POD OF POND 30	9,900.0	9,900.0

APPROVED: _____ DATE: _____
 PUBLIC WORKS SUPERVISOR (P.E. CITY ENGINEER)
 APPROVED: _____ DATE: _____
 PROJECT ENGINEER
 OR: CDD002

SHEET NO. **S-8**
 OF 10

DAVID EVANS AND ASSOCIATES, Inc.
 5700 Pacific Hwy, East, Suite 201
 Tacoma, Washington 98424
 Phone: 253/922/8789

HARBOR HILL SOUTH STORM CONTROL FACILITY
 OLYMPIC PROPERTY GROUP 19245 TENTH AVE.
 POULSBRO, WA 98070 360-394-0553



"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E.
CITY ENGINEER
SUBJECT: STORMWATER FACILITIES MAINTENANCE AGREEMENT AND
RESTRICTIVE COVENANT – VENTURE BANK, 7101 STINSON AVE.
DATE: NOVEMBER 28, 2005

INTRODUCTION/BACKGROUND

The City has required private on-site storm water detention facilities to be constructed in conjunction with the Venture Bank remodeling project located on Parcel Nos. 0221083100 and 0221083068 at 7101 Stinson Ave. As specified in Section 14.20.530, Gig Harbor Municipal Code (GHMC), a maintenance covenant is required for all privately maintained drainage facilities, as well as a requirement that the covenant be recorded with the property. This allows the City a nonexclusive right-of-entry onto those portions of the property immediately adjacent to the storm water facilities for the purpose of inspection of the facilities, and further requires that the property owner perform their own regular inspection and maintenance of the facilities at the property owner's expense.

The City's standard Storm Water Facilities Maintenance Agreement and Restrictive Covenant has been drafted and approved by Carol Morris, City Attorney.

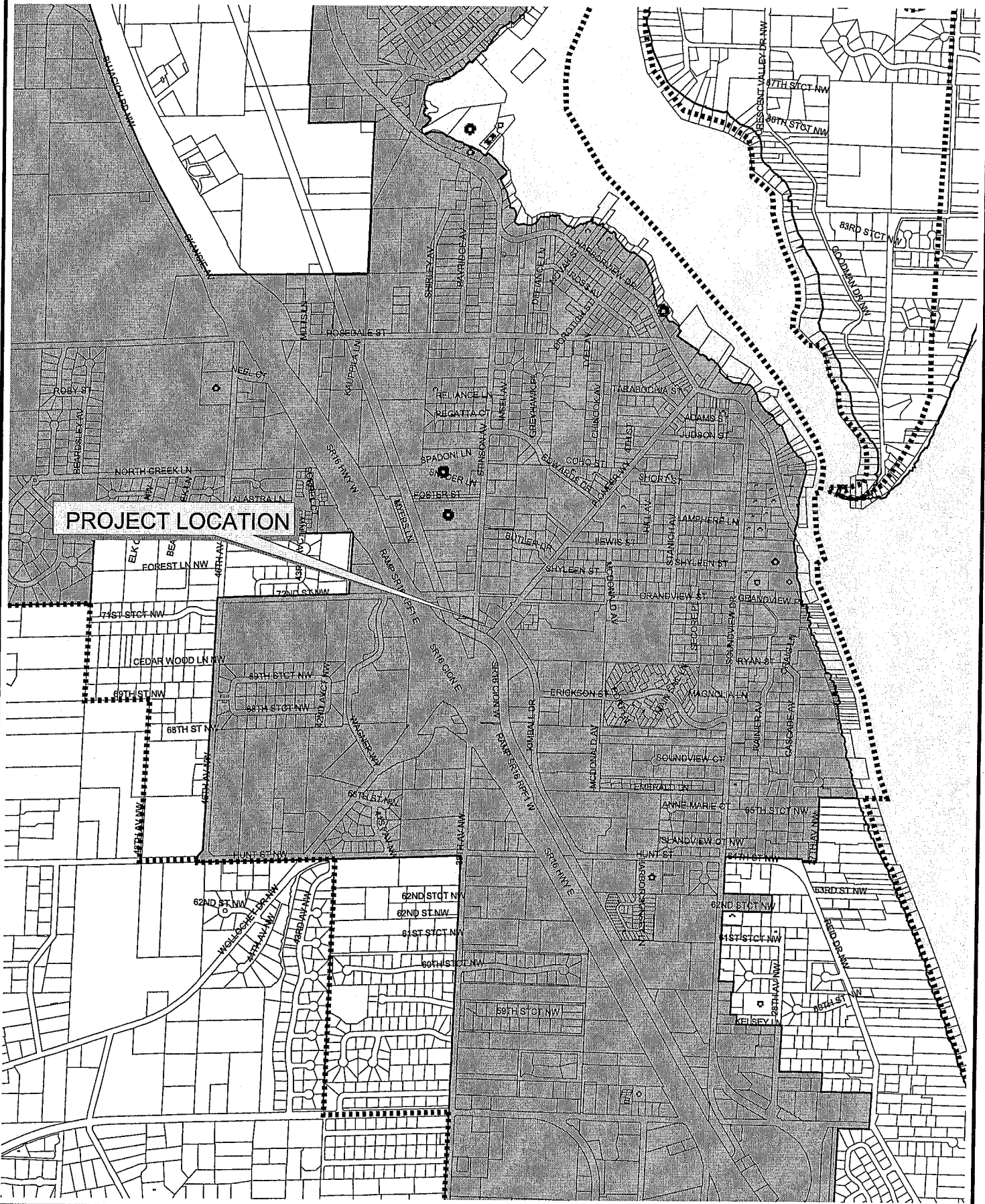
Council approval of these agreements is requested.

FISCAL CONSIDERATIONS

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

RECOMMENDATION

I recommend that the Council approve the agreement as presented.



PROJECT LOCATION

VENTURE BANK
7101 STINSON
VICINITY MAP

AFTER RECORDING, RETURN TO:

**The City of Gig Harbor
Attn: City Clerk
3510 Grandview Street
Gig Harbor, WA 98335**

Document Title: **STORM WATER FACILITIES MAINTENANCE
AGREEMENT AND RESTRICTIVE COVENANT**

Grantor: VENTURE BANK

Grantee: City of Gig Harbor

Legal Description: *[insert abbreviated legal description here]* **A PORTION OF THE NW 1/4 OF
THE SW 1/4 OF 08, TOWNSHIP
21 NORTH, RANGE 02 EAST,
The complete legal description may be found on page 8 of W.M. CITY
the document. OF GIG HARBOR,
PIERCE CO., WA.**

Property Tax Parcel No.: 0221083100, 0221083068

Reference No. of Documents Assigned or Released: _____

STORM WATER FACILITIES MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANT

This Storm Water Facilities Maintenance Agreement and Restrictive Covenant is made this ____ day of _____, 200__, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and VENTURE BANK, residing at 7101 STINSON AVE., GIG HARBOR, WA (hereinafter "Owner").

98335.

RECITALS

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

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

WHEREAS, such drainage system is described and shown on a construction drawing prepared by the engineering firm of AHBL on MARCH 30, 2005 (hereinafter the "Drainage System Drawing"), for the Owner's Property, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference; and

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

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

T E R M S

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

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

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

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

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

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

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

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

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

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

To the Owner:
VENTURE BANK
721 COLLEGE ST. SE, P.O. BOX 3800
LACEY, WA 98509-3800
ATTN: FACILITIES

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

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

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


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

IN WITNESS WHEREOF, the parties have caused this Maintenance Agreement and Covenant to be executed this _____ day of _____, 200 ____.

THE CITY OF GIG HARBOR

By: _____
Its Mayor

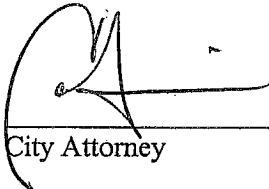
OWNER

By: 
Print Name: Lori Fenes
VP Branch Development
Venture Bank

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF ~~PIERCE~~)
Thurston

I certify that I know or have satisfactory evidence that Lori Forbes
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 Branch Development of Venture Bank, to be the free
and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 4-27-05



Leigh A. Baxter
Notary Public in and for the
State of Washington,
Title: Corp. Secretary / Notary
My appointment expires: 7/9/19/06

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

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: _____

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

LEGAL DESCRIPTION

Exhibit A

PARCEL NO. 0221083100

COMMENCING AT THE NORTHWEST CORNER OF LOT 2-A OF ABANDONED GIG HARBOR MILITARY RESERVE IN SECTION 08, TOWNSHIP 21 NORTH, RANGE 02 EAST OF THE W.M., IN PIERCE COUNTY, WASHINGTON;
THENCE SOUTH 311 FEET ALONG THE CENTER LINE OF THE BURTON NORTHERN COUNTY ROAD TO THE TRUE POINT OF BEGINNING; THENCE SOUTH ALONG THE CENTER LINE OF SAID BURTON NORTHERN ROAD 286 FEET, MORE OR LESS, TO INTERSECT THE CENTER LINE OF THE WOLLOCHET GIG HARBOR ROAD; THENCE NORTHEASTERLY ALONG THE CENTER LINE OF THE WOLLOCHET GIG HARBOR ROAD NORTH 36°50' EAST 299 FEET TO THE SOUTHERLY LINE OF A TRACT CONVEYED TO FRANK SANFORD AND FLORENCE K. SANFORD BY DEED RECORDED UNDER RECORDING NO. 1619866; THENCE NORTHWESTERLY ALONG THE SOUTHERLY LINE OF SAID TRACT TO THE POINT OF BEGINNING;

EXCEPT ROADS;

ALSO EXCEPT THAT PORTION APPROPRIATED BY THE STATE OF WASHINGTON BY DECREE ENTERED FEBRUARY 28, 1972 IN PIERCE COUNTY SUPERIOR COURT CAUSE NO. 205540.

PARCEL NO. 0221083068

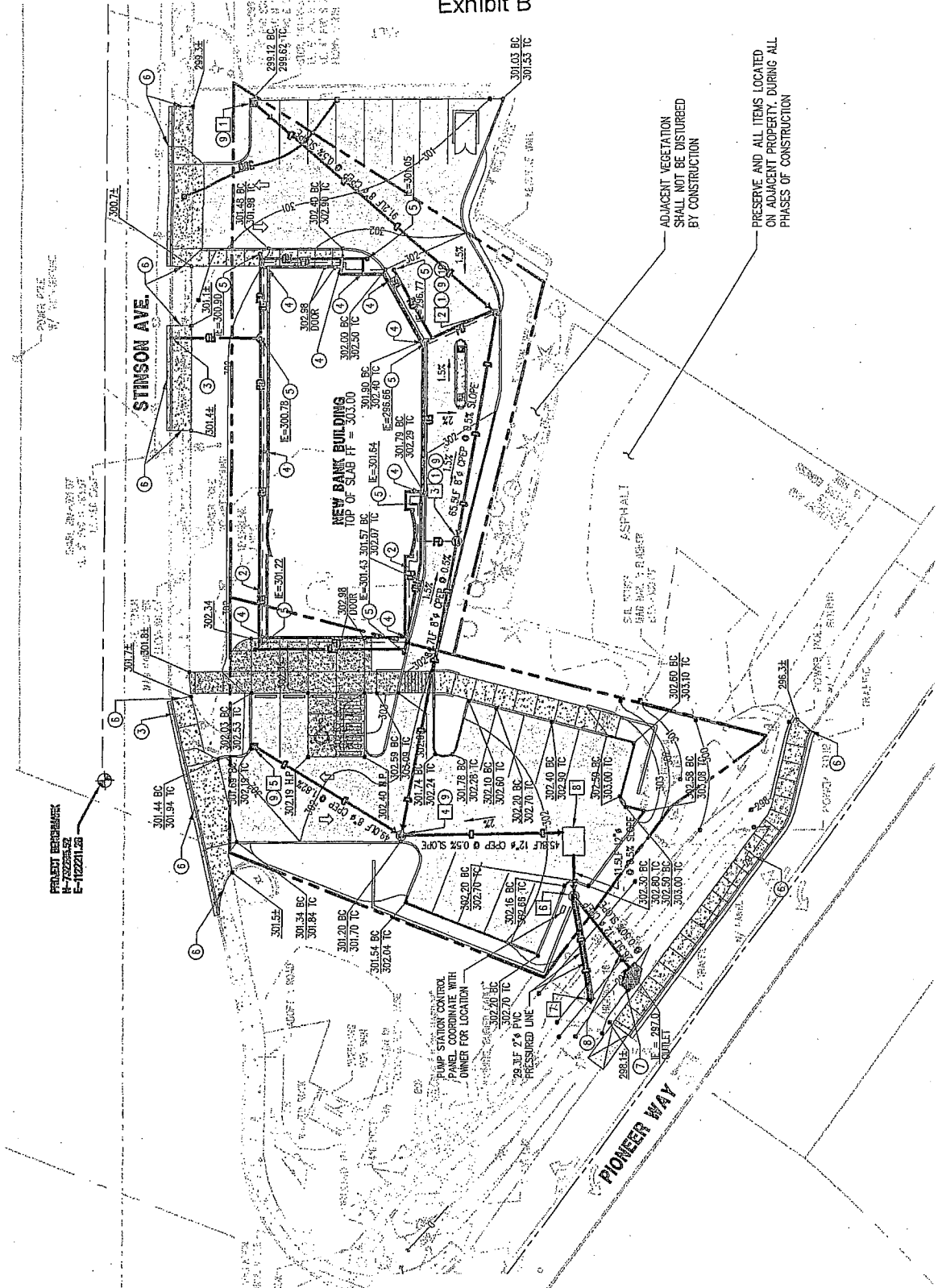
COMMENCING AT THE NORTHWEST CORNER OF SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 21 NORTH, RANGE 2 EAST, OF THE W.M. IN PIERCE COUNTY, WASHINGTON;

THENCE NORTH 89°59'34" EAST 30.00 FEET;
THENCE SOUTH 00°43'21" WEST 165.06 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 56°45'36" EAST 105.00 FEET; THENCE SOUTH 13°58'52" WEST 108.44 FEET TO THE NORTHERLY LINE OF PREMISES CONVEYED TO FRANK KIMBALL BY DEED RECORDED UNDER AUDITOR'S FEE NO. 441665; THENCE NORTH 74°48'53" WEST ALONG SAID NORTHERLY LINE 68.00 FEET TO THE EAST LINE OF BURTON-NORTHERN COUNTY ROAD; THENCE NORTH 01°35'00" EAST ALONG SAID EAST LINE 145.00 FEET TO THE TRUE POINT OF BEGINNING.

BOUNDARY LINE ADJUSTMENT

BOUNDARY LINE ADJUSTMENT BLA 05-46 CURRENTLY PENDING AT CITY OF GIG HARBOR

Exhibit B



PRESENT BENCHMARK
H-792255.52
E-112221.25



ADMINISTRATION

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR
SUBJECT: SECOND READING - 2006 BUDGET ORDINANCE
DATE: NOVEMBER 28, 2005

BACKGROUND

The total budget is \$25,520,289. Total budgeted revenues for 2006 are \$17.1 million while budgeted beginning fund balances total \$8.5 million. Total budgeted expenditures for 2006 are \$19.4 million and budgeted ending fund balances total \$6.2 million.

The 2006 budgeted revenues and expenditures are 19% and 2% less than in 2005. Budgeted operating or ongoing revenues and expenditures are 4% and 9% greater than 2005.

The General Fund accounts for 39 percent of total expenditures, while Special Revenue (Street, Drug Investigation, Hotel - Motel, Public Art Capital Projects, Park Development, Civic Center Debt Reserve, Property Acquisition, General Government Capital Improvement, Impact Fee Trust and Lighthouse Maintenance) and Enterprise Funds are 34 percent and 22 percent of total expenditures. General government debt service funds are 5 percent of 2006 budgeted expenditures.

This budget adds the following full-time positions:

- A Community Development Clerk - to be hired January 1
- Two Laborers - to be hired April 1
- A Police Sergeant - to be hired mid-year
- Two temporary, part-time Community Development Clerks
- A temporary, part-time Building Inspector

The budget also includes a change to the city's fund balance policy and a \$150,000 transfer from the General Fund to the Capital Improvement Fund in order to start saving for major street projects.

The changes to the budget document resulting from the first reading are attached to this memo.

RECOMMENDATION

I recommend adoption of the 2006 budget ordinance.

**CITY OF GIG HARBOR
ORDINANCE NO.**

**AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF GIG
HARBOR, WASHINGTON, FOR THE 2006 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 2006 fiscal year, and a notice was published that the Gig Harbor City Council would meet on November 14 and November 28, 2005 at 7:00 p.m., in the Council Chambers in the Civic Center for the purpose of making and adopting a budget for 2006 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 2006 proposed budget; and

WHEREAS, the 2006 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 2006 and being sufficient to meet the various needs of Gig Harbor during 2006.

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 2006 is hereby adopted in its final form and content.

Section 2. Estimated resources, including beginning fund balances, for each separate fund of the City of Gig Harbor, and aggregate total for all funds combined, for the year 2006 are set forth in summary form below, and are hereby appropriated for expenditure during the year 2006 as set forth below:

2006 BUDGET APPROPRIATIONS

<u>FUND / DEPARTMENT</u>	<u>AMOUNT</u>
001 GENERAL GOVERNMENT	
01 NON-DEPARTMENTAL	<u>\$2,447,445</u> \$2,297,445
02 LEGISLATIVE	35,600
03 MUNICIPAL COURT	547,000
04 ADMINISTRATIVE/FINANCIAL	895,800
06 POLICE	2,279,680
14 COMMUNITY DEVELOPMENT	<u>1,427,890</u> 1,502,890
15 PARKS AND RECREATION	968,300
16 BUILDING	374,600
19 ENDING FUND BALANCE	<u>927,825</u> 1,002,825
001 TOTAL GENERAL FUND	9,904,140
101 STREET FUND	2,538,047
105 DRUG INVESTIGATION FUND	5,874
107 HOTEL-MOTEL FUND	468,268
108 PUBLIC ART CAPITAL PROJECTS	50,314
109 PARK DEVELOPMENT FUND	185,391
110 CIVIC CENTER DEBT RESERVE	2,953,311
208 LTGO BOND REDEMPTION	910,894
209 2000 NOTE REDEMPTION	123,952
210 LID 99-1 GUARANTY	88,460
211 UTGO BOND REDEMPTION	259,000
301 PROPERTY ACQUISITION FUND	713,433
305 GENERAL GOVT. CAPITAL IMPROVEMENT	<u>722,433</u> 572,433
309 IMPACT FEE TRUST	358,315
401 WATER OPERATING	860,530
402 SEWER OPERATING	1,950,344
407 UTILITY RESERVE	157,308
408 UTILITY BOND REDEMPTION FUND	390,054
410 SEWER CAPITAL CONSTRUCTION	1,172,274
411 STORM SEWER OPERATING	623,400
420 WATER CAPITAL ASSETS	363,765
605 LIGHTHOUSE MAINTENANCE TRUST	1,782
607 EDDON BOAT REMEDIATION TRUST	<u>719,000</u>
TOTAL ALL FUNDS	<u>\$ 25,370,289</u>

Section 3. Attachment "A" is adopted as the 2006 personnel salary schedule.

Section 4. The city clerk is directed to transmit a certified copy of the 2006 budget hereby adopted to the Division of Municipal Corporations in the Office of the State Auditor and to the Association of Washington Cities.

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

PASSED by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this 28th day of November, 2005.

Mayor

ATTEST:

Molly Towslee, City Clerk

Filed with city clerk: 11/9/05

Passed by the city council:

Date published:

Date effective:

ATTACHMENT "A"

2006 Salary Schedule

2006 RANGE

POSITION	Minimum	Maximum
City Administrator	\$ 8,217	\$ 10,271
Chief of Police	6,419	8,024
Community Development Director	6,306	7,883
Finance Director	6,196	7,745
Police Lieutenant	5,551	6,939
City Engineer	5,486	6,857
Director of Operations	5,486	6,857
Information Systems Manager	5,486	6,857
Fire Marshal/Building Official	5,486	6,857
Planning/Building Manager	5,486	6,857
Police Sergeant	4,901	6,126
Wastewater Treatment Plant Supervisor	4,774	5,967
Senior Planner	4,602	5,753
City Clerk	4,596	5,745
Associate Engineer	4,576	5,720
Assistant Building Official	4,546	5,683
Public Works Supervisor	4,546	5,683
Accountant	4,485	5,606
Court Administrator	4,478	5,598
Field Supervisor	4,292	5,366
Tourism Marketing Director	4,136	5,170
Planning / Building Inspector	3,926	4,908
Construction Inspector	3,926	4,908
Associate Planner	3,889	4,861
Payroll/Benefits Administrator	3,883	4,854
Police Officer	3,760	4,700
Mechanic	3,665	4,581
Wastewater Treatment Plant Operator	3,607	4,509
Engineering Technician	3,605	4,506
Information System Assistant	3,531	4,414
Maintenance Worker	3,505	4,381
Assistant City Clerk	3,446	4,308
Assistant Planner	3,393	4,241
Community Services Officer	3,294	4,118
Finance Technician	3,283	4,104
Community Development Assistant	3,168	3,960
Police Services Specialist	2,864	3,580
Court Clerk	2,826	3,533
Custodian	2,814	3,518
Laborer	2,814	3,518
Mechanic Assistant	2,814	3,518
Administrative Assistant	2,719	3,399
Community Development Clerk	2,464	3,080
Administrative Receptionist	\$ 2,464	\$ 3,080



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PROPOSED ANNEXATION – RESOURCE PROPERTIES (ANX 05-910)
DATE: NOVEMBER 28, 2005

INFORMATION/BACKGROUND

The City has received a complete Notice of Intention to Commence Annexation Proceedings from Resource Properties for a proposal to annex approximately twenty-two (22) acres of property located east of Peacock Hill Avenue adjacent to the existing City limits and within the City's Urban Growth Area (UGA).

Property owners of more than the required ten percent (10%) of the acreage for which annexation is sought signed this request. The pre-annexation zoning for the area is Single-Family Residential (R-1).

Pursuant to the process for annexations by code cities in Pierce County, a copy of the proposed legal description was sent to the Clerk of the Boundary Review Board for review and comment. Pierce County has approved the legal description and map as presented.

Additionally, this request was distributed to the City Administrator, Chief of Police, Director of Operations, City Engineer, Building Official/Fire Marshal, Planning Manager, Finance Director, and Pierce County Fire District #5 for review and comment.

The Council is required to meet with the initiating parties to determine the following:

1. Whether the City Council will accept, reject, or geographically modify the proposed annexation;
2. Whether the City Council will require the simultaneous adoption of the zoning for the proposed area in substantial compliance with the proposed Comprehensive Plan as adopted by City of Gig Harbor Ordinance No. 981; and
3. Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed.

Notice of this meeting was sent to property owners of record within the area proposed for annexation as well as those within three hundred feet (300') on November 14, 2005.

If accepted, the process will then move forward with the circulation of a formal petition for annexation. The petition must be signed by either by the owners of a majority of the acreage and a majority of the registered voters residing in the area considered for annexation; or by property owners of sixty percent (60%) of the assessed value of the area proposed for annexation.

POLICY CONSIDERATIONS

The City of Gig Harbor Building Official/Fire Marshal reviewed the proposal and noted that the annexation will bring additional land under our review for future building permitting. This has the potential to increase workload for plan reviews, permitting and inspections. Fire flow in the area is unknown at this point. Additional fire hydrants and main improvements will likely be required as part of development of the properties. Given these comments, the Building Official/Fire Marshal has no objection to this annexation.

The Director of Operations noted that the property is located within the Washington Water Company service area, the area is identified in the Sewer Comprehensive Plan, and that the nearest sewer manhole is located at Ringold and Peacock.

The Planning Manager has noted the potential presence of wetlands on-site, pursuant to GHMC 18.08.090, the annexation proponent will be required to submit a wetland analysis report with the annexation petition. Peacock Hill Avenue is a defined parkway and future development of the property will need to conform to the parkway development standards in the Design Manual.

The City of Gig Harbor Finance Director noted that there would be no significant financial impacts from this proposed annexation.

The Chief of Police has commented that no additional resources will be required as a result of this annexation.

The Boundary Review Board is guided by RCW 36.93.180 in making decisions on proposed annexations and is directed to attempt to achieve stated objectives. These objectives, listed below, are worthy of consideration by the Council in determining the appropriateness of this annexation. Staff has evaluated the proposal in light of these criteria and has provided comments following each of the criteria.

RCW 36.93.180

Objectives of boundary review board.

The decisions of the Boundary Review Board shall attempt to achieve the following objectives:

- (1) Preservation of natural neighborhoods and communities;

Comment: The proposed annexation area consists primarily of single-family residential development and vacant land.

(2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;

Comment: The proposed annexation area is bounded to the south by the existing City limits, Peacock Hill Avenue to the west and the Urban Growth Boundary to the east.

(3) Creation and preservation of logical service areas;

Comment: The proposed annexation would not alter any service area boundaries.

(4) Prevention of abnormally irregular boundaries;

Comment: The proposed annexation would not create an abnormally irregular boundary.

(5) Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas;

Comment: Not applicable with regards to this proposed annexation.

(6) Dissolution of inactive special purpose districts;

Comment: The proposed annexation would not dissolve an inactive special purpose districts.

(7) Adjustment of impractical boundaries;

Comment: Not applicable with regards to this proposed annexation, the area proposed for annexation is entirely within the City's Urban Growth Boundary.

(8) Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character; and

Comment: The proposed annexation is of an unincorporated area with lot sizes ranging from 0.48 to 7.62 acres in size. The area consists of both residentially developed land and vacant land and is within the City's Urban Growth Boundary which is planned for urban levels of development.

(9) Protection of agricultural and rural lands which are designated for long-term productive agricultural and resource use by a comprehensive plan adopted by the county legislative authority.

Comment: The proposed annexation does not involve designated agricultural or rural lands.

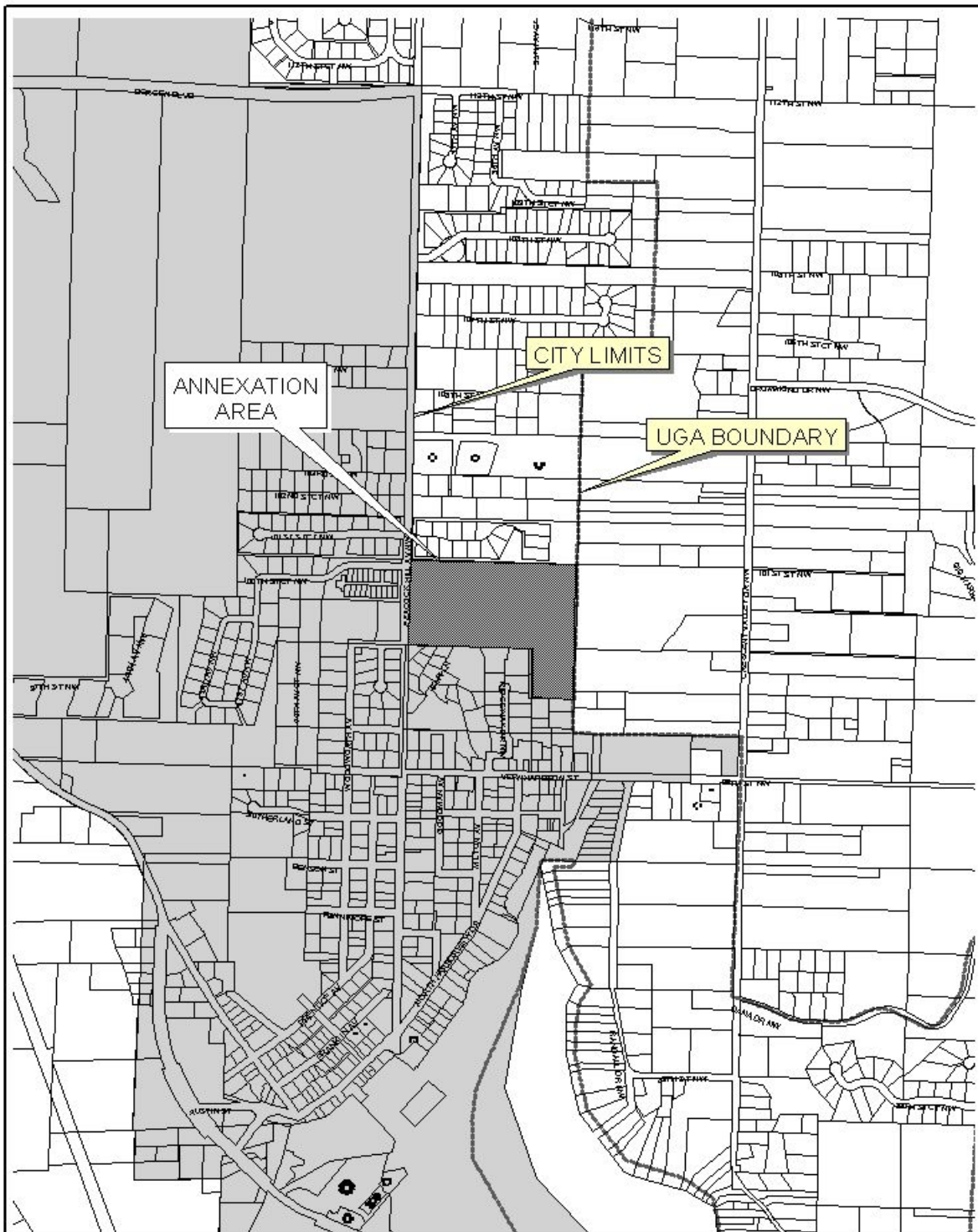
FISCAL CONSIDERATIONS

The Finance Director has noted that financial impacts from this proposed annexation would not be significant to the City.

RECOMMENDATION

I recommend that the Council accept the notice of intent to commence annexation and further authorize the circulation of a petition to annex the subject property to the following conditions:

1. The City shall require that the property owner(s) assume all of the existing indebtedness of the area being annexed;
2. The City will require the simultaneous adoption of Single-Family Residential (R-1) zoning for the proposed annexation area in substantial compliance with the Comprehensive Plan as adopted by City of Gig Harbor Ordinance No. 981; and
3. A wetland analysis report must be submitted together with the annexation petition pursuant to Gig Harbor Municipal Code Section 18.08.090.



RESOURCE PROPERTIES ANNEXATION (ANX 05-910)
VICINITY MAP

**NOTICE OF INTENTION TO COMMENCE ANNEXATION
PROCEEDINGS**

The Honorable Mayor and City Council
City of Gig Harbor
3510 Grandview Street
Gig Harbor WA, 98335

Dear Mayor and City Council:

The undersigned, who are the owners of not less than ten percent (10%) of the acreage for which annexation is sought, hereby advise the City Council of the City of Gig Harbor that it is the desire of the undersigned owners of the following area to commence annexation proceedings:

The property herein referred to is legally described on Exhibit "A" attached hereto and is geographically depicted on a Pierce County Assessor's parcel map on Exhibit "B" further attached hereto.

It is requested that the City Council of the City of Gig Harbor set a date, not later than sixty (60) days after the filing of this request, for a meeting with the undersigned to determine:

1. Whether the City Council will accept, reject, or geographically modify the proposed annexation;
2. Whether the City Council will require the simultaneous adoption of the zoning for the proposed area in substantial compliance with the proposed Comprehensive Plan as adopted by City of Gig Harbor Ordinance No. 981; and
3. Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed.

This page is one of a group of pages containing identical text material and is intended by the signers of the Notice of Intention of Commence Annexation Proceedings to be presented and considered as one Notice of Intention of Commence Annexation Proceedings and may be filed with other pages containing additional signatures which cumulatively may be considered as a single Notice of Intention of Commence Annexation Proceedings.

Notice of Intention to Commence Annexation Proceedings
Page 2 of 2

signatures which cumulatively may be considered as a single Notice of Intention.

OWNERS SIGNATURE	PRINTED NAME	ADDRESS & TAX PARCEL NO.	DATE SIGNED
MICHAEL			
<i>Michael T Toole</i>	MICHAEL T TOOLE	10017 PEACOCK HILL AV NW 0222323135	10/14/05
<i>Margara S Toole</i>	MARGARA S TOOLE	10017 PEACOCK HILL AV NW 0222323135	10/14/05
<i>Jack D Busacich</i>	JACK BUSACICH	9950 PEACOCK HILL AV NW 0222323134	10/17/05
<i>George P. Busacich</i>	GEORGE BUSACICH	9950 PEACOCK HILL AV NW 0222323134	10/17/05
<i>George P. Busacich</i>			

Exhibit A

RESOURCE PROPERTIES Legal Description ANX 05-910

89 0027 000

EXHIBIT 'A'

LEGAL DESCRIPTION

That portion of Section 32, Township 22 North, Range 2 East, W.M. described as follows:

The South Half of the South Half of the Northwest Quarter of the Southwest Quarter;
Together with the North Half of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter;
Together with the Northwest Quarter of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter;
Together with the north 5.5 acres of the East Half of the East Half of the Southwest Quarter of the Southwest Quarter as shown on Pierce County Short Plat Recorded under Auditor File Number 8109290173, Records of Pierce County.

Except Peacock Hill Avenue N.W. (Purdy Gig Harbor Road)

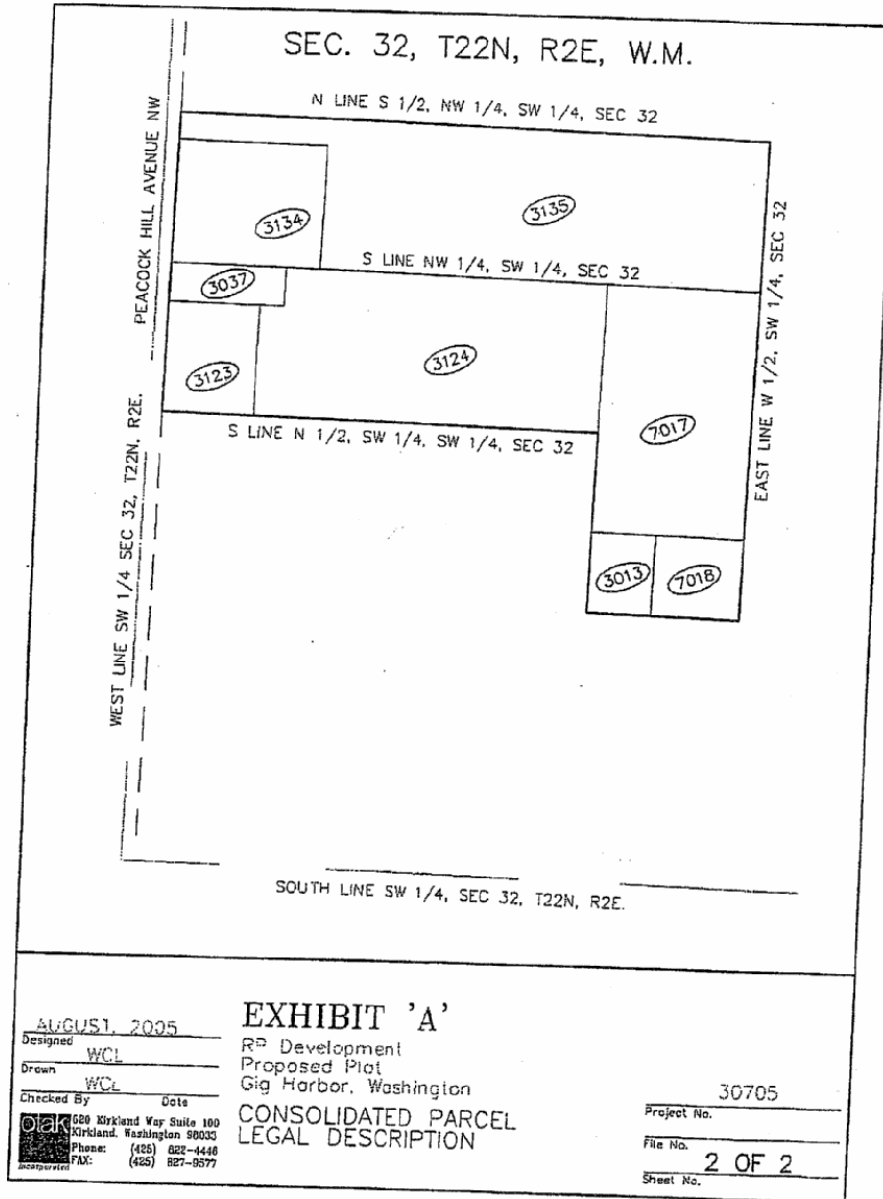
Containing an area of 22.77 acres more or less.



*AKS Accepted
9/15*

Exhibit B

RESOURCE PROPERTIES Annexation Map ANX 05-910



*BRS
 accepted
 9/10/05*

EXHIBIT B



THIS SKETCH IS PROVIDED, WITHOUT CHARGE, FOR YOUR INFORMATION. IT IS NOT INTENDED TO SHOW ALL MATTERS RELATED TO THE PROPERTY INCLUDING, BUT NOT LIMITED TO, AREA, DIMENSIONS, EASEMENTS, ENCROACHMENTS OR LOCATIONS OF BOUNDARIES. IT IS NOT A PART OF, NOR DOES IT MODIFY, THE COMMITMENT OR POLICY TO WHICH IT IS ATTACHED. THE COMPANY ASSUMES NO LIABILITY FOR ANY MATTER RELATED TO THIS SKETCH. REFERENCE SHOULD BE MADE TO AN ACCURATE SURVEY FOR FURTHER INFORMATION.

ORDER NO. _____

SECTION: 32 TOWNSHIP: 22N RANGE: 02E



BBB accepted
9/10/11



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: FIRST READING OF AN ORDINANCE CLARIFYING THE
REQUIREMENTS FOR SEWER HOOK-UPS
DATE: NOVEMBER 28, 2005

INFORMATION/BACKGROUND

The issue of connection of newly annexed areas to the City's sanitary sewer system was raised during a recent annexation proceeding. Council directed staff to prepare recommendations to address this issue. The draft Ordinance presented for Council consideration would require connection to the sanitary sewer system within two (2) years if infrastructure is located within two hundred feet (200') of a structure.

The Community Development Committee reviewed the Ordinance at the November 15, 2005 meeting and recommends approval.

The City Attorney has reviewed and approved the Ordinance as presented.

RECOMMENDATION

I recommend approval of the Ordinance as presented at the second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE DISPOSAL OF SANITARY WASTE; CLARIFYING THE REQUIREMENTS FOR SEWER HOOK-UPS TO CERTAIN BUILDINGS, NEWLY CONSTRUCTED STRUCTURES AND USES OF PROPERTY, ESTABLISHING NEW REQUIREMENTS FOR SEWER HOOK-UPS TO STRUCTURES NEWLY ANNEXED TO THE CITY; ESTABLISHING NEW PENALTIES FOR FAILURES TO CONNECT TO THE CITY'S SEWER SYSTEM; CLARIFYING THE APPEAL PROCEDURE FOR EXCEPTIONS AND EXPIRATION OF SUCH EXCEPTIONS, AMENDING SECTION 13.28.100 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, the City currently has requirements for waste water and sanitary sewer hook-ups for certain types of structures in the City; and

WHEREAS, the City Council would like to further clarify the requirements for waste water and sanitary sewer hook-ups; and

WHEREAS, on October 13, 2003, the City Council moved to direct staff to bring a resolution for consideration that will address newly annexed property and the requirement to connect to city services (Franich / Ruffo - unanimously approved); and

WHEREAS, the City SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA under WAC 197-11-800; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting on November 28, 2005 and December 12, 2005; Now, Therefore,

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

Section 1. Section 13.28.100 of the Gig Harbor Municipal Code is hereby amended to read as follows:

13.28.100 Waste water or sanitary sewer Hook-Up Requirements and Exceptions. ~~Public sewer available—When toilet facilities installation and connection required—Exceptions.~~

A. Definitions. For the purpose of this section, the words listed below shall have the following meanings:

1. Human Occupancy shall mean that the normally accepted use of the particular type of structure, building or home is living quarters, a place of work, office, store, or any other place where people will spend time, including, but not limited to, restaurants, churches, schools, theaters and parks.
2. Building shall mean any structure built for the support or enclosure of persons, animals, chattels or property of any kind.
3. Structure shall mean a combination of materials that is constructed or erected, either on or under the ground, or that is attached to something having a permanent location on the ground, excluding residential fences, retaining walls, rockeries and similar improvements of a minor character the construction of which is not regulated by the building code of the city.

B. Requirements for New Construction. The owners of all new houses, buildings, structures or other uses of property used for human occupancy shall be required to connect the improvements on their properties to a public waste water or sanitary sewer, except as provided in subsection E G of this section. ~~And properties~~

C. A. Requirements for Existing Houses, Buildings, Structures or Uses. The owners of all existing houses, buildings, structures or properties used for human occupancy, ~~employment, recreation or other purposes,~~ situated within the City and abutting on any street, alley or easement in which there is now located ~~or may, within the next six years, be located, as shown on the city's current sewer comprehensive plan,~~ a public waste water or sanitary sewer of the City, are required to connect the improvements on their properties to a public waste water or sanitary sewer, at their own expense, in accordance with this subsection. ~~To install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter.~~ If a public waste water or sanitary sewer is constructed within two hundred (200) feet of the house, building, structure, or property (as measured by a two hundred foot (200') radius from the existing or new waste water or sanitary sewer infrastructure to the nearest property line), the property owner is on notice that he or she must implement the connection to the public waste water or sanitary sewer system within the next two years.

On or after January 1, 2008, the City shall notify the property owners in writing of the need to connect to the public waste water or sanitary sewer system. After receipt of the written notification from the City, the property

~~owner shall have one hundred and twenty (120) days to implement the connection. This section does not apply where the City determines that there is a health or safety hazard associated with the private sewer or septic system, as provided in GHMC Section 13.28.110, in which case the City may order immediate connection to the public waste water or sanitary sewer, within 120 days after date of official notice to do so; provided that the public sewer is within 200 feet of the building or buildings and specific provisions have been made to connect such to the public sewer and that no public health or safety hazards exist as determined by the city engineer.~~

D. Requirements for Houses, Buildings, Structures or Uses Newly Annexed to the City. Within two years after the effective date of annexation, the owners of all houses, buildings, structures or properties used for human occupancy situated in the City and abutting on any street, alley or easement in which there is now located a public waste water or sanitary sewer of the City, are required to comply with the connection procedures, at their own expense, in accordance with subsection (C) above.

C. E. Exceptions.

1. The City Engineer may approve an exception to the requirements of this section to address the on-site sewer needs of new buildings and structures to be constructed on individual lots created prior to the Washington State Legislature's adoption of the Growth Management Act (chapter 36.70A RCW) on July 1, 1990, if all of the following limited circumstances exist:

~~a. The subject lot is not located in an area planned to be served by a waste water or sanitary sewer, as shown in the most current version of the City's six-year capital improvement plan and sewer comprehensive plan;~~

~~b. The subject lot in its current configuration was created prior to July 1, 1990, which was the date of the adoption of the Growth Management Act;~~

~~c. The septic system to be constructed will serve no more than one single family dwelling unit or no more than one building or no more than one structure on the lot meeting the criteria of this subsection; and~~

~~d. The property owner shall record a notice against the lot, in a form approved by the City Attorney, providing notice to all subsequent purchasers that the City's approval of a septic system under these procedures will not affect the City's ability to enforce any of the requirements of this section or this chapter subsection A of this section (or any subsequent amendment to subsection A of this subsection) against the lot at any time in the future, as long as the conditions described in that subsection exist.~~

2. Expiration of Exception, Appeals.

a. The City Engineer's denial of an exception shall not be a final, appealable decision if the request for the exception is made prior to submission of a project permit application for construction of the building or structure on the lot. If a request is denied, a property owner may make a subsequent request for an exception at the time of submission of a project permit application for construction of a structure or building on the property, or at the time any circumstances pertinent to the criteria in this subsection substantially change.

b. If the request for the exception is made in conjunction with the submission of a project permit application for construction of the building or structure on the lot, the City Engineer's decision may only be appealed together with (and/or following the procedures associated with) an appeal of the underlying project permit application.

c. The City Engineer's grant of an exception that is not associated with a project permit application shall expire within one year if a project permit application is not submitted to the City. The City Engineer's grant of an exception associated with a project permit application shall expire concurrent with the underlying permit.

3. This procedure is exempt from the procedures in GHMC Title 19, pursuant to RCW 36.70B.140.

D. Penalties for Noncompliance. The City may implement the procedures set forth in GHMC Section 13.28.130 for a property owner's failure to comply with the requirements of this section. In the alternative or in addition to GHMC Section 13.28.130, the City may impose penalties on the property owner in an amount equal to the charge that would be made for sewer service if the property was connected to the sewer system, on the date required by this section. Pursuant to RCW 35.67.194, all penalties shall be considered revenues of the system.

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

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

PASSED by the Gig Harbor City Council and the Mayor of the City of Gig Harbor this _____ day of _____, 200__.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

By: _____
CAROL A. MORRIS, CITY ATTORNEY

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



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PUBLIC HEARING AND FIRST READING OF AN ORDINANCE
AMENDING CRITICAL AREAS REGULATIONS AS REQUIRED BY
STATE STATUTE (RCW 36.70A.130 & 172)
DATE: NOVEMBER 28, 2005

INFORMATION/BACKGROUND

The City is required to take action to review and, if needed, revise the critical areas development regulations to ensure compliance with the requirements of the Growth Management Act (GMA) (RCW 36.70A.130 (4)(a)). Specifically, this review is to include the use of best available science in designating and protecting critical areas (RCW36.70A.172). This review was anticipated to be completed in 2004.

The Planning Commission reviewed the critical areas development regulations at a series of work-study sessions and has identified recommended updates consistent with the State mandate. These recommended updates were considered at a public hearing before the Planning Commission on November 4, 2004 and during a follow-up work-study session on November 18, 2004. A copy of the November 18, 2004 meeting minutes have been attached.

A public hearing on the proposed amendments to Title 18 was held during the November 22, 2004 City Council meeting and the draft Ordinance was further considered at the December 13, 2004 meeting. At that time, action of the draft Ordinance was deferred pending the completion of a wetland inventory which has now been completed and has been distributed to the Mayor and Councilmembers for review.

Staff has prepared a draft Ordinance for the adoption of amendments to Title 18 of the Gig Harbor Municipal Code as required by state statute. The Community Development Committee has reviewed the draft Ordinance and inventory. The City Attorney has reviewed and approved the draft Ordinance.

Teresa Vanderburg of Adolfsen Associates, Inc. will be available at the public hearing to answer any questions that may arise.

RECOMMENDATION

As this will be the third public hearing on this draft Ordinance, the Council may, at its discretion, take action to adopt the Ordinance at this first reading by an affirmative vote of a majority plus one of the whole membership of the Council. If such action is not

taken, this Ordinance will be presented as a second reading at the next Council meeting.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
Thursday, November 18, 2004
Gig Harbor Civic Center**

PRESENT: Commissioners Theresa Malich, Kathy Franklin, Carol Johnson, Dick Allen, Bruce Gair, Scott Wagner and Chairperson Paul Kadzik. Staff present: John Vodopich, Steve Osguthorpe, Kristin Riebli, and Diane Gagnon.

CALL TO ORDER: 6:05 p.m.

APPROVAL OF MINUTES:

MOTION: Move to approve the minutes of November 4, 2004 Johnson/Franklin – unanimously approved.

NEW BUSINESS

1. Comprehensive Plan Update – Code and Policy Study Session #5

Community Development Director John Vodopich explained to the Planning Commission that this would be the final work-study session with them and that they would need to make a final recommendation to the City Council for their meeting of November 22, 2004.

Mr. Vodopich then briefed the Planning Commission on the proposal from AHBL for the new Chapter 17.92 Mineral Resource Lands and read the requirements to notify property owners who are within 400 feet of a site designated as mineral resource land. Chairman Kadzik asked if city staff would be responsible for the notification process. Planning Manager Steve Osguthorpe answered that staff would contact the Department of Natural Resources to determine any areas presently operating under a valid surface mining permit. The Planning Commission agreed to the proposed language in the new section.

The next item for discussion was the Airport Overlay District. Commissioner Gair asked why we were calling the airport an “essential public facility” and John Vodopich replied that the definition of essential public facilities includes airports.

Commissioner Gair stated that in section 2.3.2 it states that “The City intends to support continued growth and development of the general aviation airport facilities at Tacoma Narrows airport when consistent with the Gig Harbor Comprehensive Plan goals” and asked which goals were being referred to. It was decided that this was a general statement referring to all the goals of the Comprehensive Plan and that the word “all” should be inserted to reflect that. Mr. Gair further expressed concern with voicing

support of the airport's continued growth. Mr. Vodopich suggested that the language "continued growth and development of" be removed and the Planning Commission agreed.

The discussion then continued to the next item which was new language supporting low impact development. Community Development Director John Vodopich read the proposed language to support low impact development methods to manage stormwater runoff on-site and the Planning Commission agreed with the language as presented.

Owen Dennison from AHBL presented the information on the Housing Element pointing out Table 3 which illustrates existing zoned capacity. Commissioner Gair asked about the new language following the table which references an excess cushion of 23 percent above the projected need and expressed a concern with maintaining excess housing capacity. Mr. Vodopich explained that the cushion was to accommodate projected growth and may never be developed. Owen Dennison continued to explain the difference between housing units and households and the vacancy rate.

Chairman Paul Kadzik clarified that basically we are changing the maximum density from 3 dwelling units per acre to 4 dwelling units per acre. Associate Planner Kristin Riebli pointed out that there is also a 30% incentive allowed for developing a planned residential development in those zones. It was agreed to remove the 30% bonus and the Planning Commission agreed with the density increase.

The Planning Commission then discussed Title 18 – Critical Areas. Owen Dennison reviewed the various changes. It was decided to discuss the proposed changes to the wetland buffers first.

Commissioner Scott Wagner asked the other Planning Commission members to review the matrix which had been distributed at the last meeting which compared the city's existing buffers with those proposed by the consultant and the range suggested by best available science.

Commissioner Johnson stated that we have to be sure that what we adopt is defensible and asked if our current buffers were. Commissioner Wagner stated that our current buffer widths were within the recommended range and expressed concern with doubling them. He then suggested that they be increased somewhat but not doubled.

Discussion followed on the changes to the categories and how they compared to our current categories. Commissioner Johnson pointed out that the proposed categories are more in line with the state.

Chairman Kadzik stated that the numbers proposed seemed to be in the conservative range and expressed the need to balance conservation with the needs of the community. Commissioner Wagner added that we needed to achieve 4 dwelling units per acre while still protecting the wetlands and that he didn't believe these large buffers accomplished that goal. He then recommended that the buffer for a Category 1 wetland

remain at the suggested 200 feet and that Category II be changed to 75, Category III to 35 and Category IV to 25. Discussion followed on the state recommended ranges and whether those suggested fell within them. It was decided that that Planning Commission would recommend the following wetland buffers:

- Category I – 200 feet
- Category II – 100 feet
- Category III – 50 feet
- Category IV – 25 feet

Owen Dennison then went over the changes to the section on buffer reductions, pointing out that the current regulation states that degraded buffers may be enhanced and reduced to not less than 50 percent and that they were suggesting that it be changed to 70 percent.

Chairman Kadzik asked for clarification of a degraded buffer and Planning Manager Steve Osguthorpe stated that staff does not have the knowledge to determine the quality of a buffer and would rely on a certified wetland specialist hired by the proponent.

Commissioner Johnson suggested that the allowance be changed to 55 percent and the Planning Commission agreed.

Associate Planner Kristin Riebli cautioned that there may be situations where a wetland may be willfully degraded in order to utilize the buffer reduction. Commissioner Wagner expressed concern for how it would be determined what was willful as animals and farming can degrade a wetland. Chairman Kadzik suggested that language be added stating buffer reduction will not be allowed if the buffer degradation is a result of a documented code violation and the Planning Commission agreed.

The next item for discussion was the new section on streams. Planning Manager Steve Osguthorpe explained that we don't currently have a section on streams. Commissioner Wagner asked what types of streams we have in the city and Mr. Osguthorpe answered that Donkey Creek, Crescent Creek and their tributaries probably fell within the type 2 and 3 categories. The Planning Commission agreed with the recommendation of AHBL.

The Planning Commission then discussed the wetland buffer replacement ratios. Associate Planner Kristin Riebli read from the current code noting that the ratios being proposed were only a slight increase in the lower categories.

Commissioner Franklin noted that these ratios seem to balance both the environmental interests and property owner interests. The Planning Commission agreed with the recommended ratios.

Owen Dennison then asked the Planning Commission to go over the introduction noting

that the numbers had been updated to reflect current information.

Chairman Paul Kadzik then asked if there was any other discussion and stated that a motion for recommendation would be appropriate at this time.

MOTION: Move to recommend the City Council approve the 2004 Comprehensive Plan as modified. Johnson/Franklin – unanimously approved.

NEXT REGULAR MEETING:

December 2, 2004 at 6pm – Work-Study Session

Commissioner Bruce Gair noted that he would not be attending the meetings of December 2nd and 16th, 2004.

Commissioner Kathy Franklin stated that she would also be absent from the meeting of December 2nd.

ADJOURN:

MOTION: Move to adjourn at 7:40 p.m.
Johnson/Malich – unanimously approved

CD recorder utilized:

Disc #1 Track 1

Disc #2 Track 1

**CITY OF GIG HARBOR
ORDINANCE NO.**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, RELATING TO LAND USE; INTEGRATING THE CITY'S WETLAND REGULATIONS WITH THE CRITICAL AREAS REGULATIONS; ADDING NEW DEFINITIONS TO THE CHAPTER ON CRITICAL AREAS AND WETLANDS; ADOPTING NEW WETLAND RATING CATEGORIES, CONSISTENT WITH THE DOE WETLAND RATINGS; ESTABLISHING NEW WETLAND BUFFER WIDTHS; ADOPTING A WETLAND BUFFER AVERAGING PROCEDURE; ADOPTING STREAM CLASSIFICATIONS, BUFFER WIDTHS AND STREAM PROTECTION REGULATIONS; ADDING NEW PROVISIONS TO FISH AND WILDLIFE HABITAT FOR SPECIAL CONSIDERATIONS FOR SALMONIDS; AMENDING SECTIONS; 18.08.020; 18.08.030; 18.08.040; 18.08.060; 18.08.040; 18.08.050; 18.08.100; 18.08.120; 18.08.170; 18.08.180; 18.12.090; ADDING NEW SECTIONS 18.08.030; 18.08.240; 18.08.260; 18.08.270; 18.08.330; 18.08.340; 18.08.360; 18.08.370 TO THE GIG HARBOR MUNICIPAL CODE.

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

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

WHEREAS, the City adopted a revised comprehensive plan, consistent with the requirements of the Growth Management Act (RCW 36.70A.130 (4)(a)) on December 13, 2004 (Ordinance No. 981); and

WHEREAS, the City is required to consider critical areas ordinances and utilize best available science in designation and protection critical areas as part of the mandated review (RCW 36.70A.130 (1)(a) & .172); and

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

WHEREAS, the City Community Development Director notified the Washington State Department of Community Trade and Economic Development of the City's intent to amend the Comprehensive Plan and development regulations on October 21, 2004 and on December 20, 2004 pursuant to RCW 36.70A.106; and

WHEREAS, the City Community Development Director notified the Washington State Department of Ecology of the City's intent to amend Title 18 of the Gig Harbor Municipal Code on January 7, 2005; and

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the Gig Harbor City Council held a third public hearing and considered the recommendations of the Planning Commission amending the Critical Areas regulations on November 28, 2005;

Now, Therefore,

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

Section 1. Development Regulations. The City Council hereby adopts the amendments to Title 18 of the Gig Harbor Municipal Code, as set forth in Exhibit A, which are incorporated herein by reference.

Section 2. Critical Areas Findings of Fact. The City Council hereby adopts the Critical Areas Findings of Fact, as set forth in Exhibit B, which are incorporated herein by reference.

Section 3. Implementing Development Regulations.

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

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

C. **Testimony.**

The following persons testified/submitted written testimony at the November 22, 2004 public hearing:

James A. Wright, testified and submitted a letter for consideration by the Council regarding the use of Planned Residential Developments; and

The Washington State Department of Ecology submitted a letter dated November 22, 2004 regarding the draft Critical Areas Ordinance via facsimile.

The following person's testified/submitted written testimony at the December 13, 2004 public hearing:

Jim Wright, submitted a letter dated December 8, 2004 regarding densities and diversity of housing;

The Puget Sound Regional Council submitted a letter dated December 8, 2004 regarding the Transportation Element;

The Olympic Property Group submitted a letter dated December 10, 2004 regarding wetland buffer width averaging;

Marilyn Owel submitted a letter dated December 13, 2004 regarding wetland buffer width recommendations;

The Friends of Pierce County submitted a letter dated December 13, 2004 regarding low impact development techniques and wetlands;

Carl Halsan testified that the City likely has very few Category I wetlands;

Teresa Vanderburg, Adolfson Associates, Inc. referenced her revised memorandum responding to the November 22, 2004 Department of Ecology letter and reiterated the low potential for any Category I wetlands in the City;

John Chadwell, Olympic Property Group referenced the December 10, 2004 letter and commented on wetland buffers width averaging;

Dennis Reynolds, Davis Wright Tremaine submitted a letter written on behalf of four clients regarding the wetland issues;

Chris Wright, Raedeke Associates, Inc. referenced his December 10, 2004 letter attached to the Olympic Property Group correspondence regarding wetland buffer width averaging;

Doug Sorenson testified that his wetland consultant indicated that he has a Category I wetland; and

Scott Wagner testified regarding the wetland buffer issues.

The following person's testified/submitted written testimony at the November 28, 2005 public hearing:

XXX

Section 4. Transmittal to State. The City Community Development Director is directed to forward a copy of this Ordinance, together with all of the exhibits, to the Washington State Office of Community Development within ten days of adoption, pursuant to RCW 36.70A.106.

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

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

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this day of , 2005.

CITY OF GIG HARBOR

GRETCHEN A. WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
CAROL A. MORRIS

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

Exhibit A

18-1

Title 18

ENVIRONMENT

Chapters:

18.04 Environmental Review (SEPA)

~~18.08 Wetland Management Regulations~~Critical Areas

~~18.12 Critical Areas~~

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

Gig Harbor Municipal Code 18.08.030

~~18-11 (Revised 10/96)~~

Chapter 18.1208

CRITICAL AREAS

Sections:

18.08.010 Purpose.

18.08.020 Goals.

18.08.030 Best Available Science.

18.08.040 Definitions.

18.08.050 Applicability.

18.08.060 Hillsides, ravine sidewalls and bluffs.

18.08.070 Landslide and erosion hazard areas.

18.08.080 Seismic hazard areas.

18.08.090 Flood hazard areas.

18.08.100 Wetlands – Designation and Mapping.

18.08.110 Wetlands – classification guidelines/ratings.

18.08.120 Wetlands – Regulated activities.

18.08.130 Wetlands – Permitting process.

18.08.140 Wetlands – Administration.

18.08.150 Wetlands – analysis report requirements.

18.08.160 Wetlands – Buffers.

18.08.170 Wetlands – Alteration of buffers.

18.08.180 Wetlands – Permitted uses in buffer areas.

18.08.190 Wetlands – Sequence of mitigation actions.

18.08.200 Wetlands – Mitigation plan submittal requirements.

18.08.210 Wetlands – Criteria for compensatory mitigation/location criteria and timing of compensatory mitigation.

18.08.220 Wetlands – replacement criteria.

18.08.230 Wetlands – Monitoring program and contingency plan.

18.08.240 Streams – Designation and rating of Streams.

18.08.250 Streams – Critical Areas Report.

18.08.260 Streams – Performance Standards-General.

18.08.270 Streams – Performance Standards-Mitigation Requirements.

18.08.280 Critical fish and wildlife habitat areas.

18.08.290 Aquifer recharge areas.

18.08.300 Maintenance of existing structures and developments.

18.08.310 Exemptions from development standards.

18.08.320 Variances from the minimum requirements.

18.08.330 Reasonable use exceptions.

18.08.340 Performance Bonding.

18.08.350 Penalties and enforcement.

18.08.360 Suspension and revocation.

18.08.370 Nonconforming uses.

~~18.0812.010 Purpose.~~

~~18.0812.020 Goals.~~

~~18.08.03012.xxx Best Available Science~~

~~18.1208.0340 Definitions.~~

~~18.0812.0540 Applicability.~~

~~18.1208.0650 Hillsides, ravine sidewalls and bluffs.~~

~~18.1082.0760 Landslide and erosion hazard areas.~~

~~18.0812.0870 Seismic hazard areas.~~

~~18.0812.0890 Flood hazard areas.~~

~~18.1208.100xxx Wetlands~~

~~18.08.11012.xxx Streams~~

~~18.1208.012090 Critical fish and wildlife habitat areas.~~

~~18.0812.1300 Aquifer recharge areas.~~

~~18.0812.1140 Reasonable use exceptions.~~

~~18.0812.1520 Maintenance of existing structures and developments.~~

~~18.1208.1360 Exemptions from development standards.~~

~~18.1208.1470 Variances from the minimum requirements.~~

~~18.1208.1850 Performance assurance.~~

~~18.0812.1960 Penalties and enforcement.~~

~~18.0812.20170 Severability.~~

~~18.1208.180210 Chapter and ordinance updates.~~

II. 18.1208.010 Purpose.

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

community. (Ord. 619 § 1, 1992).

III. 18.1208.020 Goals.

In implementing the purposes stated in GHMC ~~18.12.18.08.010~~, it is the intent of this chapter to accomplish the following:

A. Protect environmentally sensitive natural areas and the functions they perform by the careful and considerate regulation of development;

B. Minimize damage to life, limb and property due to landslides and erosion on steep or unstable slopes, seismic hazard areas and areas subject to subsidence;

C. Protect wetlands and their functions and values;

D. Protect and maintain stream flows and water quality within the streams;

~~D~~E. Minimize or prevent siltation to the receiving waters of Gig Harbor Bay for the maintenance of marine water quality and the maintenance and preservation of marine fish and shellfish;

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

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

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

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

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

IV. 18.1208.030 Best Available Science.

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

Best available science shall be used in developing policies and development regulations to protect the functions and values of critical areas.

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

V. 18.1208.0340 Definitions.

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

Definitions.

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

1. “Alteration” means any activity which materially affects the existing condition of land or improvements.

2. “Applicant” means the person, party, firm, corporation, or other legal entity that proposes any activity. The applicant is either the owner of the land on which the proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

3. “Aquifer” means a subsurface, saturated geologic formation which produces, or is capable of producing, a sufficient quantity of water to serve as a private or public water supply.

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

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

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

7. “Buffer” means a natural area adjacent to hillsides or ravines which provides a margin of safety

through protection of slope stability, attenuation of surface water flows and landslide, seismic and erosion hazards reasonably necessary to minimize risk to the public from loss of life, well-being or property damage from natural disaster.

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

9. “City” means the city of Gig Harbor.

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

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

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

13. “Creation” means the producing or forming of a wetland through artificial means from an upland (nonwetland) site.

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

15. “Department” means the city department of community development.

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

17. “Development” means alteration (see definition for alteration).

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

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

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

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

22. “Erosion hazard areas” means those areas

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

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

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

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

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

27. “Fish and wildlife habitat areas” means those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife and natural vegetation including waters of the state, and as further identified in GHMC 18.08.280~~990~~.

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

29. “Floodplain development permit” means the permit required by ~~the city flood hazard construction ordinance~~ Chapter 15.04 GHMC.

30. “Geologically hazardous areas” means those areas as designated in the city of Gig Harbor comprehensive plan as “landslide hazards,” in the Washington Department of Ecology Coastal Zone Atlas, Volume 7, and which are further defined in

WAC 365-190-080(5) and this title.

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

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

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

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

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

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

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

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

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

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

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

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

43. "Qualified biologist" means a person with a minimum of a four-year degree in wildlife sciences, biology, environmental sciences, soil science, limnology or an equivalent academic background who also has at least two years of experience in stream restoration.

44. "Qualified wetland specialist" is a person with a minimum of a four-year degree in wildlife sciences, biology, environmental sciences, soil science, limnology or an equivalent academic background who also has experience in performing wetland delineations, analysis of wetland functions

and values and project impacts, and wetland mitigation and restoration techniques. The person must be familiar with the Washington State Department of Ecology Wetland Identification and Delineation Manual (1997), which is consistent with the 1987 Federal Manual used by the U.S. Army Corps of Engineers, city grading and clearing ordinance, and Chapter 18.08 GHMC regulations and the requirements of this chapter. (Ord. 726 § 1, 1996; Ord. 611 § 1, 1991).

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

4346. "Ravine sidewall" means a steep slope which abuts and rises from the valley floor of a stream and which was created by the normal erosive action of the stream. Ravine sidewalls are characterized by slopes predominantly in excess of 25 percent although portions may be less than 25 percent. The base of a ravine sidewall is the stream valley floor. The top of a ravine sidewall is a distinct line where the slope abruptly levels out. Where there is no distinct break in slope, the top shall be that point where the slope diminishes to 15 percent or less.

4447. "Restoration" means the reestablishment of a viable wetland from a previously filled or degraded wetland site.

4548. "Seismic hazard areas" means those areas which are susceptible to severe damage from earthquakes as a result of ground shaking, slope failure, settlement or soil liquefaction.

4649. "Significant impact" means a meaningful change or recognizable effect to the ecological function and value of a critical area wetland, which is noticeable or measurable, resulting in a loss of wetland function and value.

4750. "Single-family residence" or "dwelling" means a building or structure, or portion thereof, which is designed for and used to provide a place of abode for human beings, including mobile homes, as defined in the city zoning code (GHMC 17.04.300 and 17.04.305).

4851. "Site" means any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way under the applicant's ownership or control where the proposed project impacts a wetland critical area (s).

4952. "Slope" means an inclined ground surface, the inclination of which is expressed as a ratio (percentage) of vertical distance to horizontal

distance by the following formula: V (vertical distance) $\times 100 = \% \text{ slope}$ H (horizontal distance)

~~5053.~~ “Species of local importance” means a species of animal which is of local concern due to their population status or their sensitivity to habitat manipulation. This term also includes game species.

~~5154.~~ “Stockpiling” means the placement of material with the intent to remove at a later time.

~~55.~~ “Streams” means those areas where surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses. For the purpose of this definition, a defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round.

~~56.~~ “Stream buffer zone” means a designated area contiguous or adjacent to a stream that is required for the continued maintenance, function, and structural stability of the stream. Functions of a buffer include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat.

~~5257.~~ “Substrate” means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.

~~5358.~~ “Utility line” means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas and communications.

~~5459.~~ “Wetland” or “wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, retention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. Wetlands include those artificial wetlands

intentionally created from nonwetland areas created to mitigate conversion of wetlands.

~~5560.~~ “Wetland buffer zone” means a designated area contiguous or adjacent to a wetland that is required for the continued maintenance, function, and structural stability of the wetland. Functions of a buffer include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat. For further information on permitted uses, see GHMC ~~18.08.18016020.~~

~~5661.~~ “Wetland class” means the U.S. Fish and Wildlife Service wetland classification scheme using a hierarchy of systems, subsystems, classes and subclasses to describe wetland types (refer to USFWS, December 1979, Classification of Wetlands and Deepwater Habitats of the United States for a complete explanation of the wetland classification scheme). Eleven class names are used to describe wetland and deepwater habitat types. These include: forested wetland, scrub-shrub wetland, emergent wetland, moss-lichen wetland, unconsolidated shore, aquatic bed, unconsolidated bottom, rock bottom, rocky shore, streambed, and reef.

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

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

VI. ~~18.12.18.08.050~~ Applicability.

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

Development proposals include any development project which would require any of the following:

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

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

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

VII. 18.1208.0560 Hillsides, ravine sidewalls and bluffs.

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

1. Ravine Sidewalls and Bluffs.

a. Buffers. ~~An 50-foot~~ undisturbed buffer of natural vegetation with a minimum width equal to the height of the ravine sidewall shall be established and maintained from the top, toe and sides of all ravine sidewalls and bluffs. All buffers shall be measured on a horizontal plane.

b. Buffer Delineation. The edge of a buffer shall be clearly staked, flagged and fenced prior to any site clearing or construction. Markers shall be clearly visible and weather resistant. Site clearing shall not commence until such time that the project proponent or authorized agent for the project proponent has submitted written notice to the city that the buffer requirements of this section have been

met. Field marking of the buffer shall remain in place until all phases of construction have been complete and an occupancy permit has been issued by the city.

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

- i. Not adversely impact the stability of ravine sidewalls;
- ii. Not increase erosion and mass movement potential of ravine sidewalls;
- iii. Use construction techniques which minimize disruption of existing topography and vegetation;
- iv. Includes measures to overcome any geological, soils and hydrologic constraints of the site.

The buffer may be reduced to no less than the minimum rear yard setback established in the respective zoning district, pursuant to GHMC Title 17.

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

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

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

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

Gig Harbor Municipal Code 18.12.18.08.070 18-29

C. Report Key Contents

1. Recommended maximum site ground disturbance.

2. Estimate of storm drainage (gpm) for preconstruction, during construction and post-construction.

3. Recommended methods to minimize erosion and storm water runoff from site during construction and post-construction.

4. Seismic stability of site, preconstruction, during construction and post-construction.

a. Development Location. Structures and improvements shall be located to preserve the most

sensitive portion of the site, its natural land forms and vegetation.

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

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

VIII. 18.1208.0670 Landslide and erosion hazard areas.

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

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

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

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

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

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

C. Development Standards. Upon submission of a satisfactory geotechnical report or assessment, site development may be authorized by the director

subject to the following:

1. Buffers shall comply with the requirements of GHMC ~~18.08.06012-160050~~(A);

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

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

IX. 18.0812.07080 Seismic hazard areas.

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

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

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

1. Analysis of subsurface conditions;

2. Delineation of the site subject to seismic hazards;

3. Analysis of mitigation measures which may be employed to reduce or eliminate seismic risks, including an evaluation of the effectiveness of mitigation measures.

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

X. 18.1208.08090 Flood hazard areas.

Areas which are prone to flooding and which are identified in the Federal Emergency Management Administration flood insurance rate maps for the city of Gig Harbor (September 2, 1981) shall be subject to

the requirements of this section.

A. Regulation. All development within flood hazard areas shall be subject to the requirements of the city of Gig Harbor flood hazard construction standards (Chapter 15.04 GHMC). (Ord. 619 § 1, 1992).

XI. ~~A.18.08.xxx?~~ 18.08.100 Wetlands – Designation and Mapping. ~~mapping of wetlands.~~

A. Pursuant to WAC 197-11-908, the city designates wetlands as critical areas defined in this chapter.

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

1. Areas designated on the National Wetland Inventory maps;

the Pierce County wetland atlas of 1990;

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

[Definitions for the following have been integrated into the Definitions Section 18.08.03040 above.]

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

Site
Slope
Stockpiling
Substrate
Utility line
Wetland or wetlands
Wetland buffer zone
Wetland class
Wetland specialist

XII. 18.08.11040 Wetlands – classification guidelines/ratings.

A. Wetland rating and classification shall be established based upon the completion of a delineation report prepared by a qualified wetland specialist to determine boundary, size, function and value. Guidelines for preparing a wetland delineation report are defined in GHMC 18.08.070~~150~~ and the Department of Ecology Wetland Identification and Delineation Manual (1997), which is consistent with the 1987 Federal Manual for Identifying and Delineating Jurisdictional Wetlands, in use as of January 1, 1995, used by the U.S. Army Corps of Engineers.

B. **Wetland ratings.** Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System for Western Washington, revised April 2004– (Ecology Publication #04-06-025). These documents contain the definitions and methods for determining if the criteria below are met.

1. Wetland rating categories

a. **Category I.** Category I wetlands are those wetlands of exceptional resource value based on their functional value and diversity. Category I wetlands are:

i. Undisturbed estuarine wetlands larger than one acre,

ii. Wetlands designated by Washington Natural Heritage Program as high quality,

iii. Bogs,

iv. Mature and old-growth forested wetlands larger than one acre,

v. Wetlands in coastal lagoons,

vi. Wetlands that perform high functions (wetlands scoring 70 points or more on the Ecology wetland rating form).

~~i. Documented habitat for federal or state listed endangered or threatened fish, animal, or plant species;~~

~~ii. High quality native wetland communities, including documented category I or II quality Natural Heritage wetland sites and sites which qualify as a~~

~~category I or II quality Natural Heritage wetland (defined in the rating system documents);~~

~~iii. High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, estuarine wetlands, or mature forested swamps (defined in the rating system documents); or~~

~~iv. Wetlands of exceptional local significance.~~

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

~~1. Category I.~~

~~a. Documented habitats for sensitive plant, fish or animal species recognized by federal or state agencies, or~~
~~b. Regionally rare wetland communities which are not high quality, but which have irreplaceable ecological functions, including sphagnum bogs and fens, estuarine wetlands, or mature forested swamps, or~~
~~e. Wetland types with significant functions which may not be adequately replicated through creation or restoration. These wetlands may be demonstrated by the following characteristics:~~

~~i. Significant peat systems, or~~

~~ii. Forested swamps that have three canopy layers, excluding monotypic stands of red alder averaging eight inches diameter or less at breast height, or~~

~~iii. Significant spring fed systems, or~~

~~d. Wetlands with significant habitat value based on diversity and size, including wetlands which are:~~

~~i. Ten acres or greater in size; and two or more wetland classes together with open water at any time during a normal year, or~~
~~ii. Ten acres or greater in size; and three or more wetland classes; and five or more subclasses of vegetation in a dispersed pattern, or~~
~~iii. Five acres or greater in size; and 40 to 60 percent open water at any time during a normal year; and two or more subclasses of vegetation in a dispersed pattern, or~~

~~e. Regulated wetlands which are contiguous with both year round and intermittent salmonid fish bearing waters, or~~

~~f. Wetlands with significant use by fish and wildlife.~~

b. Category II. Category II wetlands are those wetlands of significant resource value based on their functional value and diversity. Category II wetlands are:

i. Estuarine wetlands smaller than one acre or disturbed estuarine wetlands larger than

one acre, or

ii. Wetlands scoring between 51 and 69 points on the Ecology wetland rating form.

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

c. Category III. Category III wetlands are those wetlands of important resource value based on their functional value and diversity. Category III wetlands are wetlands with a moderate to low level of functions (wetlands scoring 30 to 50 points on the wetland rating form).

3. Category III.

a. Regulated wetlands which do not meet the criteria of a Category I or II wetland and which are greater than 10,000 square feet in area; and
b. Hydrologically isolated wetlands that are greater than 10,000 square feet but less than or equal to one acre in size, and have only one wetland class, and have only one dominant plant species (monotypic vegetation).

e. Hydrologically isolated wetlands less than 10,000 square feet in area which contain a rare or unique species or which have significant biological function and value.

d. Category IV. Category IV wetlands are those wetlands with the lowest level of functions scoring less than 30 points on the Ecology wetland rating form. Hydrologically isolated Category IV wetlands less than 1,000 square feet are exempt as per GHMC 18.08.310H.

4. Category IV Criteria:

a. All streams designated as Type 3-5 waters by the Department of Natural Resources, Forest Practices Rules and Regulations pursuant to WAC 222-16-020 and 222-16-030. (Ord. 726 § 2, 1996; Ord. 628 § 1, 1992; Ord. 611 § 1, 1991).

XIII. 18.08.120050 Wetlands – Regulated activities.

A. Unless specifically exempted by GHMC 18.08.060310, the following activities in a wetland and/or its associated buffer shall be regulated pursuant to the requirements of this chapter. The regulated activities are as follows:

1. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

2. Dumping, discharging or filling with any material;

3. Draining, flooding or disturbing the water level or water table;

4. Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure, except repair of an existing structure or infrastructure, where the existing square footage or foundation footprint is not altered;

5. Destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, shading or planting vegetation that would alter the character of a wetland;

6. Activities from construction or development that result in significant, adverse changes in water temperature, physical or chemical characteristics of wetland water sources, including quantity and pollutants.

B. Activities listed in subsection (A) above which do not result in alteration in a wetland and/or its associated buffer, may require fencing along the outside perimeter of the buffer or erosion control measures as provided in GHMC 18.08.310160(B). (Ord. 611 § 1, 1991).

18.08.060 Exemptions.

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

A. Existing and ongoing agricultural activities, as defined in this chapter;

B. Forestry practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practice regulations;

C. Activities affecting a hydrologically isolated wetland, if the functional wetland size is less than 2,500 square feet, except that such activities shall comply with the city flood hazard construction code and the city storm drainage management plan;

D. Maintenance, operation and reconstruction of existing roads, streets, utility lines and associated structures, provided that reconstruction of any such facilities does not extend outside the scope of any designated easement or right of way;

E. Activities on improved roads, rights of way, easements, or existing driveways;

F. Normal maintenance and reconstruction of structures, provided that reconstruction may not extend the existing ground coverage;

G. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities;

H. Activities having minimum adverse impacts on wetlands, such as passive recreational uses, sport fishing or hunting, scientific or educational activities;

I. Activities and developments which are subject to the policies and standards and subject to review pursuant to the state Shoreline Management Act and the city shoreline master program;

J. Emergency actions which must be undertaken immediately or for which there is insufficient time for full compliance with this chapter where necessary to:

1. Prevent an imminent threat to public health or

safety, or

2. Prevent an imminent danger to public or private property, or

3. Prevent an imminent threat of serious environmental degradation.

The department shall determine on a case by case basis emergency action which satisfies the general requirements of this subsection. In the event a person determines that the need to take emergency action is so urgent that there is insufficient time for review by the department, such emergency action may be taken immediately. The person undertaking such action shall notify the department within one working day of the commencement of the emergency activity. Following such notification the department shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the department determines that the action taken or part of the action taken is beyond the scope of allowed emergency action, enforcement action according to provisions of this chapter is warranted. (Ord. 726 § 3, 1996; Ord. 611 § 1, 1991).

XIV. 18.08.130070 Wetlands – Permitting process.

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

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

C. This chapter applies to all regulated

activities, public or private, which will occur within wetlands, including but not limited to, the following:

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

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

E. Request for Official Determination. A request for an official determination of whether a proposed use or activity at a site is subject to this chapter must be in writing and made to the city office of community development. The request can be accompanied by a SEPA environmental checklist. The request shall contain plans, data and other information in sufficient detail to allow for determination, including a wetland delineation report. The applicant shall be responsible for providing plans and the wetland delineation report to the department.

F. A wetland analysis report shall be submitted to the department for review of a proposal for activity which lies within a wetland, or within 150 feet of a wetland. The purpose of the wetland analysis report is to determine the extent and function of wetlands to be impacted by the proposal. ~~This analysis and report may be waived for Category IV wetlands if the proposed activity includes the required minimum streamside buffer as established under GHMC 18.08.15000.~~

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

H. Prior to submittal of the wetland analysis report or the development of a lot which has a classified wetland ~~as identified on the city wetland map~~, boundaries of wetlands ~~2,500 square feet or more~~ shall be staked and flagged in the field by a

qualified wetland specialist and surveyed by a licensed professional surveyor registered in the state. Field flagging shall be distinguishable from other survey flagging on the site.

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

§ 1, 1992; Ord. 611 § 1, 1991).

XV. 18.08.140080 Wetlands Administration.

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

B. Notice and Title.

1. Notice. Upon submission of a complete application for a wetland development approval, notice shall be provided in accordance with the city zoning code for site plan review for notification of property owners within 300 feet of the subject property.

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

WETLAND AND/OR
WETLAND BUFFER NOTICE
Legal Description:

Present Owner: _____

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

Date Signature Owner

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

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

XVI. 18.08.150090 Wetlands – analysis report requirements.

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

B. The wetland analysis report shall be prepared in accordance with the methods outlined in the Uniform Federal Methods for Wetland Delineation Ecology 1997 Wetland Identification and Delineation Manual and submitted to the department for review for any proposals that are within ~~150~~200 feet of a wetland.

C. Within 30 days of receipt of the wetland analysis report and other information, the department shall determine the appropriate wetland category, buffering requirement, and required mitigation. The report shall be accorded substantial weight and the department shall approve the report's findings and approvals, unless specific, written reasons are provided which justify not doing so. Once accepted, the report shall control future decision-making

related to designated wetlands unless new information is found demonstrating the report is in error. (Ord. 628 § 1, 1992; Ord. 611 § 1, 1991).

XVII. 18.08.1600 Wetlands – Buffers. areas.

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

The following standard buffer widths are required:

Wetland Category Buffer Width

Category I ~~100~~ feet

Category I wetlands not meeting any of the criteria below: 150 feet

Category I wetlands classified as Natural Heritage Wetlands, bogs, estuarine wetlands, coastal lagoons or scoring a habitat score of 20 points or more: 200 feet

Category II ~~100~~50 feet

Category III ~~60~~25 ~~50~~ feet

Category IV ~~Type 3 water: 35-~~ 25 feet

~~(as measured from Type 4 water: 25 feet ordinary high water) Type 5 water: 15 feet~~

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

C. Where a legally established developed roadway transects a wetland buffer, the Director may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the road does not provide any buffer functions to protect the wetland in question.

D. Where a legally established bulkhead transects a wetland buffer, the Director may approve a modification of the minimum required buffer width

as long as the biologic, hydrologic and water quality functions of the wetland are protected. This modification would be evaluated on a case-by-case basis and rely upon a sensitive areas study provided by a qualified biologist where it can be demonstrated that an equal or greater protection of the wetland would occur. Measures may include bioengineering of shoreline protection, revegetation with native species, or other shoreline or buffer enhancement measures.

XVIII. 18.08.1740 Wetlands – Alteration of buffers.

Alteration of a buffer may occur in two ways:

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

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

1. **Wetland buffer reductions.** Buffer width reductions shall be considered on a case-by-case basis to take varying values of individual portions of a given wetland into consideration, where existing buffers are significantly degraded and would benefit from enhancement activities. Buffers shall not be reduced where degradation is the result of a documented code violation. Reductions may be allowed where the applicant demonstrates to the department that the wetland contains variations in sensitivity due to existing physical characteristics and that reducing the buffer width would not adversely affect the wetland functions and values, and the minimum buffer shall not be less than ~~50~~ 55 percent of the widths established in GHMC ~~18.08.100;18.08.160xxx~~ or 25 feet, whichever is greater;

a. Decisional Criteria. Prior to approval, a buffer reduction proposal shall meet all of the decisional criteria listed below. The buffer modification will be approved in a degraded wetland buffer only if:

1) It will provide an overall improvement in water quality protection for the wetland;

2) It will not adversely affect fish or wildlife species and will provide an overall enhancement to fish and wildlife habitat;

3) It will provide a net improvement in

drainage and/or storm water detention capabilities;

4) All exposed areas are stabilized with native vegetation, as appropriate;

5) It will not lead to unstable earth conditions or create an erosion hazard; and

6) It will not be materially detrimental to any other property or the City as a whole.

b. Buffer Enhancement Plan. As part of the buffer reduction request, the applicant shall submit a *buffer enhancement plan* prepared by a qualified ~~professional~~ wetland specialist. The report shall assess the habitat, water quality, storm water detention, ground water recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the six (6) criteria listed in this subsection. The *buffer enhancement plan* shall also provide the following: (a) a map locating the specific area of enhancement; (b) a planting plan that uses native plant species indigenous to this region including groundcover, shrubs, and trees; and (c) provisions for monitoring and maintenance over the monitoring period.

2. ~~Buffer widths may be increased by the department~~

2. **Wetland buffer width averaging.** The department may allow modification of the wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis ~~provided that~~ by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified wetland specialist ~~professional~~ demonstrates that: ~~the maximum buffer for Category II or III wetlands shall not exceed 100 feet;~~

a. It will not reduce wetland functions or values;

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

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

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

3. **Wetland buffer increases.** The department may require increased buffer widths in accordance with the recommendations of a qualified ~~professional biologist~~ wetland specialist and the best

available science on a case-by-case basis when a larger buffer is necessary ~~to~~ to protect wetland functions and values based on local conditions, site-specific characteristics. This determination shall be ~~reasonably~~ reasonably related to protection of the functions and values ~~of~~ of the regulated wetland. Such determination shall demonstrate that:

- a. A larger buffer is necessary to maintain viable populations of existing species, or
- b. The wetland is used by species listed by the federal government or the state as endangered, threatened, sensitive or as documented priority species or habitats, or essential or outstanding potential sites such as heron rookeries or raptor nesting areas, or
- c. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impact, or
- d. The adjacent land has minimum vegetative cover or slopes greater than 15 percent.

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

1. Qualitative alteration of buffer ~~for Categories II and III~~ Categories II, III, and IV wetlands shall be allowed when it is demonstrated that modification of the existing character of the buffer would not reduce the functions and values of the wetland; and
2. That the alteration does not include structures associated with the development unless identified in GHMC 18.08.1702(A)(2) and (3), i.e. wells and associated access; and
3. No net loss of wetland acreage due to the alteration occurs. (Ord. 611 § 1, 1991).

XIX. 18.08.1820 Wetlands – Permitted uses in buffer areas.

The following activities are permitted within the wetland buffer as impacts, if any, are mitigated through the requirements of this chapter:

- A. Wells and necessary appurtenances associated with single-family residences including a pump and appropriately sized pump house, including a storage tank, may be allowed on each site in a wetland buffer if all the following conditions are met:
1. The well is either an individual well (serving only one residence) or a Class B well (a maximum of 15 connections including necessary storage tanks);
 2. For Category I and II wetlands, the minimum distance from the well and appurtenances to the wetland edge is not less 50 percent of the buffer widths established in the table in GHMC 18.08.16000. A decrease in the required buffer width through buffer reduction or buffer width averaging ~~or other means~~ does not indicate a corresponding

decreased distance is allowed from the wetland edge to the well and appurtenances;

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

B. Pervious trails and associated viewing platforms, provided that, in the case of Category I wetlands, the minimum distance from the wetland edge is not less than 50 percent of the Category I buffer width established in the table in GHMC 18.08.16000. A decrease in the required buffer width through buffer width averaging or other means does not indicate a corresponding decreased distance from a Category I wetland edge for trails and viewing platforms.

C. The placement of underground utility lines, on-site septic drainfields meeting the requirements of the Pierce County health code, and grass-lined swales and detention/retention facilities for water treated by biofiltration or other processes prior to discharge, provided the minimum distance from the wetland edge is not less than 50 percent of the buffer widths established in the table in GHMC 18.08.16000.

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

~~**18.08.130 – Alteration of wetlands.**~~

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

XX. 18.08.14018.08.190XXX Wetlands – Sequence of mitigation actions.

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

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

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

B C. Mitigation may include a combination of the

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

**XXI. ~~18.08.150~~ ~~Mitigation~~ ~~18.08.200XXX~~
Wetlands – Mitigation plan submittal requirements.**

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

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

a. General goals of the compensatory wetland mitigation plan, including an overall goal of no net loss of wetland function and acreage, and to strive for a net resource gain in wetlands over present conditions,

b. A review of literature or experience to date in restoring or creating the type of wetland proposed,

c. Approximate site topography following construction,

d. Location of proposed wetland compensation area,

e. General hydrologic patterns on the site following construction,

f. Nature of compensation, including wetland types (in-kind and out-of-kind), general plant selection and justification, approximate project sequencing and schedule, and approximate size of the new wetland buffer,

g. A conceptual maintenance plan,

h. Conceptual monitoring and contingency plan.

2. Detailed Phase. Following approval of the conceptual wetland mitigation plan by the department, a detailed wetland mitigation plan shall be submitted to the department. The detailed wetland mitigation plan shall contain, at a minimum, the following components, and shall be consistent with the standards in GHMC 18.08.210340180 and 18.08.230350190:

a. Text and map of the existing condition of the proposed compensation area, including:

i. Existing vegetation community analysis,

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

iii. Soils analysis providing both Soil

Conservation Service mapping and data provided by on-site verified determinations,

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

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

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

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

ii. Topography of site using one foot contour intervals,

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

iv. Water flow patterns,

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

vi. Irrigation requirements, if any,

vii. Water pollution mitigation measures during construction,

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

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

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

i. Soils and substrate characteristics,

ii. Specification of substrate stockpiling

techniques,

iii. Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirement,

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

d. A schedule shall be provided showing

dates for beginning and completing the mitigation project, including a sequence of construction activities;

e. A monitoring and maintenance plan, consistent with GHMC 18.08.~~230340180~~. The plan shall include all the following:

i. Specification of procedures for monitoring and site maintenance,

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

f. A contingency plan, consistent with GHMC 18.08.~~230340180~~;

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

h. A guarantee that the work will be performed as planned and approved, consistent with GHMC 18.08.~~340180~~;

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

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

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

XXII. ~~18.08.16018.08.210XXX~~ Wetlands – Criteria for compensatory mitigation/location criteria and timing of compensatory mitigation.

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

1. The restored, created, or enhanced wetland shall be as persistent as the wetland it replaces;

2. The applicant shall demonstrate sufficient capability to carry out the compensation project;

3. The compensation area shall be provided with permanent protection and management to avoid

further development or degradation and to provide for the long term persistence of the compensation area as designed.

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

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

~~(Revised 10/96) 18-20~~

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

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

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

5. Mitigation projects shall be completed concurrent with other activities on the site, unless a phased schedule is agreed upon between the department and the applicant. Refer to GHMC 18.08.~~3220170~~ for guidelines on determining wetland acreage replacement ratios. (Ord. 611 § 1, 1991).

XXIII. ~~18.08.17018.08.220XXX~~ Wetlands – replacement criteria.

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

B. When it is proposed to alter or eliminate a wetland and the department is considering the alteration or elimination, the applicant shall be required to replace or ~~preferably~~ enhance the ~~functional and biological~~ values of the affected wetland. The wetland values will be based on an approved evaluation ~~procedure such as Wetlands Evaluation Technique (WET), Habitat Evaluation Procedure (HEP) etc.~~ A reduction in overall wetland acres is allowed if the conditions in subsection E of this section are met. ~~procedure.~~ The recommended ~~ratios~~ ratios for replacement/compensation are as established ~~in~~ in the following table:

Wetland Type Replacement Ratio

Category I: (No Alteration or Replacement)

Category II:

Forested: 2:1

Scrub/Shrub: 1.5:1

Emergent: 1:1

Open Water: 1:1

Category III:

Forested: 1.5:1

Scrub/Shrub: 1:1

Emergent: 1:1

Open Water: 1:1

Category IV: 1:1

Note that within Category II and III wetlands replacement ratios vary depending on wetland class. For example, it will be required to replace the forested portion of a wetland at a higher ratio than the other portions of the wetland.

Category I 6-to-1

Category II 3-to-1

Category III 2-to-1

Category IV 1.5-to-1

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

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

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

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

2. The applicant submits to the department a wetland mitigation plan according to requirements of GHMC 18.08.340200 which shows to the satisfaction of the department that a net increase in wetland functions and at values will result from the mitigation; and

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

a. If the department is satisfied that the mitigation will successfully meet the anticipated final outcome of the wetland mitigation plan, development permits may be issued and development activity on the site may begin.

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

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

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

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

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

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

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

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

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

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

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

3. Use plants available from local sources;

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

5. Plant mostly perennial species;
6. Avoid committing significant areas of site to species that have questionable potential for successful establishment;
7. Plant selection must be approved by a qualified wetland scientist/ecologist/specialist;
8. Water depth is not to exceed 6.5 feet (two meters);
9. The grade or slope that water flows through the wetland is not to exceed six percent;
10. Slopes within the wetland basin and the buffer zone should not be steeper than 3:1 (horizontal to vertical);
11. The substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals, or solid/hazardous wastes) inorganic/organic materials;
12. Planting densities and placement of plants shall be determined by a wetlands biologist/ecologist-qualified wetland specialist and shown on the design plans;
13. The wetland (excluding the buffer area) should not contain more than 60 percent open water as measured at the seasonal high water mark;
14. The planting plan must be approved by a qualified wetland scientist/ecologist/specialist;
15. Stockpiling shall be confined to upland areas and contract specifications should limit stockpile durations to less than four weeks;
16. Planting instructions shall describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;
17. Apply controlled release fertilizer at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process), and only to the extent that the release would be conducted in an environmentally sound manner;
18. Install an irrigation system, if necessary, for initial establishment period;
19. Construction specifications and methods shall be approved by a qualified wetland scientist/ecologist-specialist and the department;
20. All mitigation shall be consistent with requirements of the ~~city flood hazard construction ordinance Chapter 15.04 GHMC~~ and city storm drainage comprehensive plan;
21. As appropriate, and if impacts to natural wetland functions and ~~at~~-values can be fully mitigated, capacity of the wetland to store surface water should be equal to or greater than surface water storage capacity prior to the proposed activity;
22. As appropriate, and if impacts to natural wetland functions and ~~at~~-values can be fully mitigated, ability of the wetland to intercept surface water runoff on the site should be equal to or greater

than such ability prior to the proposed activity;

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

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

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

~~18.08.18018.08.XXX~~ (Revised 10/96) ~~18-22~~

**XXIV. ~~18.08.18018.08.230XXX~~ Wetlands –
Monitoring program and contingency
plan.**

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

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

C. A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails. ~~A cash deposit, assignment of funds, or other acceptable security device is required for the duration of the monitoring period specified in the approved mitigation plan, to ensure the applicant's compliance with the terms of the mitigation agreement. The amount of the security device shall equal 125 percent of the cost of the mitigation project.~~

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

1. During monitoring, use scientific procedures for establishing the success or failure of the project;
2. For vegetation determinations, permanent sampling points shall be established;
3. Vegetative success equals 80 percent per year survival of planted trees and shrubs and 80 percent per year cover of desirable understory or emergent species;
4. Submit monitoring reports of the current

status of the mitigation project to the department. The reports are to be prepared by a qualified wetland biologist/ecologist specialist and shall include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced on the following schedule:

- a. At time of construction,
- b. Thirty days after planting,
- c. Early in the growing season of the first year,
- d. End of the growing season of first year,
- e. Twice the second year,
- f. Annually;

5. Monitor a minimum of three and up to 10 growing seasons, depending on the complexity of the wetland system. The time period will be determined and specified in writing prior to the implementation of the site plan;

6. If necessary, correct for failures in the mitigation project;

7. Replace dead or undesirable vegetation with appropriate plantings;

8. Repair damages caused by erosion, settling, or other geomorphological processes;

9. Redesign mitigation project (if necessary) and implement the new design;

10. Correction procedures shall be approved by a qualified wetland specialist wetlands biologist/ecologist and the Pierce County environmental official. (Ord. 611 § 1, 1991).

~~18.08.19018.08.XXX~~ **Reconsideration and appeal procedure.**

Repeated by Ord. 726. (Ord. 611 § 1, 1991).

[General procedures in wetland regulations need to be integrated with chapter]

~~18.08.20018.08.XX~~ **Variance.**

A. Wetland variance applications are a Type III permit procedure under GHMC Title 19. A complete application for a wetland variance shall consist of the requirements as stated in Chapter 17.66 GHMC, except that required showings for a wetland variance shall be according to subsection (B)(1) of this section. The burden is upon the applicant in meeting the required showings for the granting of a variance.

B. Wetland Variance Application. The examiner shall have the authority to grant a wetland variance from the provisions of this chapter, including variance for buffer widths, when, in the opinion of the examiner, the conditions as set forth below have been found to exist. In such cases a wetland variance may be granted which is in harmony with the general purpose and intent of this chapter.

1. Required Showings for a Wetland

~~Variance. Before any wetland variance may be granted, it shall be shown:~~

~~a. That there are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to other properties and which support the granting of a variance from the buffer width requirements, and~~

~~b. That such wetland variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of this chapter is denied to the property in question, and~~

~~e. That the granting of such wetland variance will not be materially detrimental to the public welfare; and~~

2. Required Showings for Wetland Buffer Area Variance. Before any wetland buffer area variance may be granted, it shall be shown:

a. Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of this regulation is denied to the property in question, and

b. The granting of such buffer width variance will not be materially detrimental to the public welfare, and

c. The granting of the buffer width variance will not materially affect the subject wetland.

3. When granting a wetland variance, the examiner shall determine that the circumstances do exist as required by this section, and attach specific conditions to the wetland variance which will serve to accomplish the standards, criteria, and policies established by this chapter. (Ord. 726 § 7, 1996; Ord. 611 § 1, 1991).

~~18.08.21018.08.XXX~~ **Suspension and revocation.**

In addition to other penalties provided elsewhere, the department may suspend or revoke an approval if it finds that the applicant has not complied

with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval, or has failed to undertake the project in the manner set forth in the approved application. (Ord. 611 § 1, 1991).

~~18.08.22018.08.XXX~~ **Enforcement.**

A. The department shall have authority to enforce this chapter, any rule or regulation adopted, and any permit, order or approval issued pursuant to this chapter, against any violation or threatened violation thereof. The department is

authorized to issue violation notices and administrative orders, levy fines, and/or institute legal actions in court. Recourse to any single remedy shall not preclude recourse to any of the other remedies.

Each violation of this chapter, or any rule or regulation adopted, or any permit, permit condition, approval or order issued pursuant to this chapter, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense. All costs, fees, and expenses in connection with enforcement actions may be recovered as damages against the violator.

B. Enforcement actions shall include civil penalties, administrative orders and actions for damages and restoration:

1. The department may bring appropriate actions at law or equity, including actions for injunctive relief, to ensure that no uses are made of regulated wetlands or their buffers which are inconsistent with this chapter or an applicable wetlands protection program.

2. The department may serve upon a person a cease and desist order if any activity being undertaken on regulated wetlands or its buffer is in violation of this chapter. Whenever any person violates this chapter or any approval issued to implement this chapter, the department director may issue an order reasonably appropriate to cease such violation and to mitigate any environmental damage resulting therefrom. The order shall set forth and contain the following:

a. A description of the specific nature, extent and time of violation and the damage or potential damage;

b. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty may be issued with the order;

e. Effective Date. The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed;

d. Compliance. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

3. Any person who undertakes any activity within a regulated wetland or its buffer without first obtaining an approval required by this chapter, except as specifically exempted, or any person who

violates one or more conditions of any approval required by this chapter or of any cease and desist order issued pursuant to this chapter shall incur a penalty as provided for in Chapter 17.07 GHMC. The penalty assessed shall be appealable to the city hearing examiner in accordance with the procedures established pursuant to Chapter 17.07 GHMC.

4. Aiding or Abetting. Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the penalty.

5. Notice of Penalty. Civil penalties imposed under this section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

6. Application for Remission or Mitigation. Any person incurring a penalty may apply in writing within 30 days of receipt of the penalty to the department for remission or mitigation of such penalty. Upon receipt of the application, the department may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

7. Orders and penalties issued pursuant to this section may be appealed as provided for by this chapter. (Ord. 726 § 8, 1996; Ord. 611 § 1, 1991).

18.08.230 Designated wetlands.

A. Pursuant to WAC 197-11-908, the city designates the following wetland areas as environmentally sensitive areas:

1. Areas designated on the Pierce County wetland atlas of 1990;

2. Areas that meet the definition of wetlands found in this chapter;

3. Areas which have been designated as wetlands per the city of Gig Harbor wetlands inventory and maps, May/June 1992. (Ord. 628 § 1, 1992; Ord. 611 § 1, 1991).

18.08.240 ~~18.08.xxx~~ Nonconforming uses.

An established use of existing structure that was lawfully permitted prior to adoption of this chapter, may continue subject to the following:

A. Nonconforming uses shall not be expanded or changed in any way that increases their nonconformity.

However, an existing use may be changed to a less intensive use provided all other zoning and land use regulations are met;

B. Existing structures shall not be expanded or altered in any manner which will increase the nonconformity;

C. Activities or uses which are discontinued for 12 consecutive months shall be allowed to resume only if they are in compliance with this chapter; and

D. Nonconforming uses or structures destroyed by an act of God may be replaced or resumed. (Ord. 611 § 1, 1991).

18.08.25018.08.xxx Severability.
Repealed by Ord. 726. (Ord. 611 § 1, 1991).

~~18.08.26018.08. xxx Chapter and ordinance updates.~~

This chapter and its related ordinance shall be reviewed by the city within two years of the effective date of the ordinance. The purpose of reviewing is to determine what amendments are appropriate to be made, and to establish a schedule for effecting those amendments. (Ord. 611 § 1, 1991).

Gig Harbor Municipal Code 18.12.03018.08.030 18-25 (Revised 10/96)

Gig Harbor Municipal Code 18.12.18.08.030 18-25 (Revised 10/96)

STREAMS DESIGNATION and RATING

18.12.18.08.110 Streams

XXV. 18.08.240xxx –Streams – Designation and rating of Streams.

A. Streams are waterbodies with a defined bed and banks and demonstrable flow of water as defined in the chapter. Streams are designated as environmentally critical areas.

B. **Stream Classification.** Streams shall be designated Type 1, Type 2, Type 3, and Type 4 according to the criteria in this subsection.

1. Type 1 Streams are those streams identified as "Shorelines of the State" under Chapter 90.58 RCW.

2. Type 2 Streams are those streams which are:

- a. natural streams that have perennial (year-round) flow and are used by salmonid fish, or
- b. natural streams that have intermittent flow and are used by salmonid fish.

3. Type 3 Streams are those streams which are:

a. natural streams that have perennial flow and are used by fish other than salmonids, or

b. natural streams that have intermittent flow and are used by fish other than salmonids.

4. Type 4 Streams are those natural streams with perennial or intermittent flow that are not used by fish.

C. **Ditches.** Ditches are artificial drainage features created in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Ditches are excluded from regulation as streams under this section. Artificial drainage features with documented fish usage are regulated as streams. Drainage setbacks are required as per the City's Surface Water Manual.

XXVI. 18.08.250xxx Streams – —Critical Areas Report.

A. ~~Requirements for critical areas reports for streams are available from the Director.~~ A stream analysis report shall be prepared by a qualified biologist and submitted to the department as part of the SEPA review process established by the city of Gig Harbor environmental policy ordinance, Chapter 18.04 GHMC. B. The stream analysis report shall be prepared in accordance with the methods provided by Washington Department of Fish and Wildlife or Pierce County Planning and Land Services or other acceptable scientific method and submitted to the department for review for any proposals that are within 200 feet of a stream.

C. Within 30 days of receipt of the stream analysis report and other information, the department shall determine the appropriate stream category, buffering requirement, and required mitigation. The report shall be accorded substantial weight and the department shall approve the report's findings and approvals, unless specific, written reasons are provided which justify not doing so. Once accepted, the report shall control future decision making related to designated streams unless new information is found demonstrating the report is in error.

XXVII. 18.08.260xxx Streams – —Performance Standards- General.

A. **Establishment of stream buffers.** The establishment of buffer areas shall be required for all development proposals and activities in or adjacent to streams. The purpose of the buffer shall be to protect the integrity, function, and value of the stream. Buffers shall be protected during construction by placement of a temporary barricade, on-site notice for construction crews of the presence of the stream, and

implementation of appropriate erosion and sedimentation controls. Native vegetation removal or disturbance is not allowed in established buffers.

Required buffer widths shall reflect the sensitivity of the stream or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the sensitive area. Buffers or setbacks shall be measured as follows:

B. Stream Buffers

1. The following buffers are established for streams:

<u>Stream Type</u>	<u>Buffer Width (feet)</u>
<u>Type 1</u>	<u>200</u>
<u>Type 2</u>	<u>100</u>
<u>Type 3</u>	<u>50</u>
<u>Type 4</u>	<u>25</u>

2. **Measurement of stream buffers.** Stream buffers shall be measured perpendicularly from the ordinary high water mark.

3. **Increased stream buffer widths.** The Director shall require increased buffer widths in accordance with the recommendations of a qualified ~~professional~~ biologist and the best available science on a case-by-case basis when a larger buffer is necessary to protect stream functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

a. A larger buffer is needed to protect other critical areas;

b. The buffer or adjacent uplands has a slope greater than thirty percent (30%) or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland.

4. **Buffer conditions shall be maintained.** Except as otherwise specified or allowed in accordance with this Title, stream buffers shall be retained in an undisturbed condition.

5. **Degraded buffers shall be enhanced.** Stream buffers vegetated with non-native species or otherwise degraded shall be enhanced with native plants, habitat features or other enhancements.

6. **Buffer uses.** The following uses may be permitted within a stream buffer in accordance with the review procedures of this ~~Title~~Chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent ~~wetland~~stream:

a. **Conservation and restoration activities.** Conservation or restoration activities

aimed at protecting the soil, water, vegetation, or wildlife:

b. **Passive recreation.** Passive recreation facilities designed in accordance with an approved critical area report, including:

(i) Walkways and trails, provided that those pathways that are generally parallel to the perimeter of the stream shall be located in the outer twenty-five percent (25%) of the buffer area;

(ii) Wildlife viewing structures; and

(iii) Fishing access areas.

c. **Stormwater management facilities.** Grass lined swales and dispersal trenches may be located in the outer 25% of the buffer area. All other surface water management facilities are not allowed within the buffer area.

7. **Building setback.** A 15-foot building setback is required from the edge of the stream buffer ~~per 18.08xx.240xxx).~~

C. **Stream crossings.** Stream crossings may be allowed and may encroach on the otherwise required stream buffer if:

1. All crossings use bridges or other construction techniques which do not disturb the stream bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type 2 or 3 streams if the applicant demonstrates that such methods and their implementation will pose no harm to the stream or inhibit migration of fish;

2. All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;

3. Crossings do not occur over salmonid spawning areas unless the City determines that no other possible crossing site exists;

4. Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water mark;

5. Crossings do not diminish the flood-carrying capacity of the stream;

6. Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the state of Washington. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in this Title; and

7. Crossings are minimized and serve multiple purposes and properties whenever possible.

D. Stream relocations.

1. Stream relocations may be allowed only for:

a. All Stream types as part of a public project for which a public agency and utility

exception is granted pursuant to this Title; or

b. Type 3 or 4 streams for the purpose of enhancing resources in the stream if:

i. appropriate floodplain protection measures are used; and

ii. the location occurs on the site except that relocation off the site may be allowed if the applicant demonstrates that any on-site relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream.

2. For any relocation allowed by this section, the applicant shall demonstrate, based on information provided by a civil engineer and a qualified biologist, that:

a. The equivalent base flood storage volume and function will be maintained;

b. There will be no adverse impact to local groundwater;

c. There will be no increase in velocity;

d. There will be no interbasin transfer of water;

e. There will be no increase in the sediment load;

f. Requirements set out in the mitigation plan are met;

g. The relocation conforms to other applicable laws; and

h. All work will be carried out under the direct supervision of a qualified biologist.

E. **Stream enhancement.** Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer and a qualified biologist and carried out under the direction of a qualified biologist.

F. **Minor stream restoration.** A minor stream restoration project for fish habitat enhancement may be allowed if:

1. The project results in an increase in stream function and values.

2. The restoration is sponsored by a public agency with a mandate to do such work;

3. The restoration is not associated with mitigation of a specific development proposal;

4. The restoration is limited to removal and enhancement of riparian vegetation, placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;

5. The restoration only involves the use of hand labor and light equipment; or the use of helicopters and cranes which deliver supplies to the

project site provided that they have no contact with sensitive areas or their buffers; and

6. The restoration is performed under the direction of a qualified biologist.

XXVIII. ~~18.12.18.08.270xxx~~ Streams – Performance Standards – Mitigation Requirements.

A. **Stream mitigation.** Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub drainage basin as the habitat impacted.

B. **Alternative mitigation for stream areas.** The performance standards set forth in this Subsection may be modified at the City's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

XXIX. ~~18.12.18.08.280090xxx~~ Critical fish and wildlife habitat areas.

Critical fish and wildlife habitat areas are those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife and natural vegetation. Areas which are identified or classified as fish and wildlife habitat areas subject to this section shall be subject to the requirements of this section.

A. General. Critical fish and wildlife habitat areas are identified as follows:

1. Areas with which federal or state endangered, threatened and sensitive species of fish, wildlife and plants have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term;

2. Habitats and species of local importance, including:

a. Areas with which state-listed monitor or candidate species or federally listed candidate species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term,

b. Special habitat areas which are infrequent in occurrence in the city of Gig Harbor and which provide specific habitats as follows:

i. Old growth forests,

ii. Snag-rich areas,

iii. Category 2 wetland areas,

iv. Significant stands of trees which provide roosting areas for endangered, threatened, rare or species of concern as identified by the Washington Department of Wildlife;

3. Commercial and public recreational shellfish areas;

4. Kelp and eelgrass beds;

5. Herring and smelt spawning areas;

6. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

7. Lakes, ponds and streams planted with fish by a governmental agency, and agency-sponsored group or tribal entity;

8. State natural area preserves and natural resource conservation areas;

~~9. Crescent and Donkey (north) Creeks, including those lands within 35 feet of the ordinary highwater mark of the stream.~~

B. Classification. Critical fish and wildlife habitat areas are identified in the following documents:

1. Puget Sound Environmental Atlas (Puget Sound Water Quality Authority);

2. Coastal Zone Atlas of Washington, Volume IV, Pierce County (Washington Department of Ecology);

3. Commercial and Recreational Shellfish Areas in Puget Sound (Washington Department of Health);

4. The Department of Natural Resources stream typing maps and natural heritage data base;

5. The Washington Department of Wildlife priority habitats and species program, the Nongame data base, and the Washington rivers information system.

C. Regulation.

1. Habitat Assessment. For all regulated activity proposed on a site which contains or is within 300 feet of critical fish and wildlife habitat, a habitat assessment shall be prepared by a ~~professional qualified~~ wildlife biologist ~~with a minimum of a bachelor's degree in wildlife biology or an equivalent curriculum~~. The habitat assessment shall include, at a minimum, the following:

a. An analysis and discussion of species or habitats known or suspected to be located within 300 feet of the site;

b. A site plan which clearly delineates the critical fish and wildlife habitats found on or within 300 feet of the site.

2. Habitat Assessment Review. A habitat assessment shall be forwarded for review and comment to agencies with expertise or jurisdiction on the proposal, including, but not limited to:

a. Washington Department of Fish and Wildlife; ~~b. Washington Department of Fisheries;~~

eb. Washington Department of Natural Resources;

~~dc.~~ United States Fish and Wildlife Service. Comments received by the requested review agencies within 45 days of the submittal of the assessment shall be considered by the department. If it is determined, based upon the comments received, that critical fish and wildlife habitat does not occur on or within 300 feet of the site, the development may proceed without any additional requirements under this section. If it is determined that a critical fish and wildlife habitat is on or within 300 feet of the site, a habitat management plan shall be prepared.

3. Habitat Management Plan. Habitat management plans required under this section shall be prepared in coordination with the Washington Department of Fish and Wildlife by a professional qualified wildlife biologist ~~with a bachelor's degree in wildlife biology or an equivalent curriculum~~. A habitat management plan shall contain, at a minimum, the following:

a. Analysis and discussion on the project's effects on critical fish and wildlife habitat;

b. An assessment and discussion on special management recommendations which have been developed for species or habitat located on the site by any federal or state agency;

c. Proposed mitigation measures which could minimize or avoid impacts;

d. Assessment and evaluation of the effectiveness of mitigation measures proposed;

e. Assessment and evaluation of ongoing management practices which will protect critical fish and wildlife habitat after development of the project site, including proposed monitoring and maintenance programs;

f. Assessment of project impact or effect on water quality in Crescent or Donkey (north) Creeks, and any proposed methods or practices to avoid degradation of water quality. Upon a review of the habitat management plan by appropriate federal and state agencies, comments received by the agencies within 45 days of the submittal of the proposed plan shall be considered by the city and, if mitigation is recommended, may be incorporated into conditions of project approval, as appropriate. If it is determined, based upon the comments received, that a project or proposal will result in the extirpation or isolation of a critical fish or wildlife species, including critical plant communities, the project or proposal may be denied.

D. Buffer Requirements. If it is determined, based upon a review of the comments received on the habitat management plan, that a buffer would serve to mitigate impacts to a critical fish or wildlife habitat, an undisturbed buffer shall be required on the development site. The width of the buffer shall be based upon a recommendation of at least one of the

appropriate review agencies but, in no case, shall exceed 150 feet, nor be less than 25 feet.

E. Buffer Reduction. A buffer required under this section may be reduced or eliminated if the local conservation district has approved a best management plan (BMP) for the site which would provide protection to a critical fish or wildlife habitat. (Ord. 619 § 1, 1992).

F. Specific Habitats - Anadromous fish

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

a. Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;

b. An alternative alignment or location for the activity is not feasible;

c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and

d. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

3. Fills, when authorized by the City of Gig Harbor's Shoreline Management Master Program, SEPA review or clearing and grading, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use.

XXX. ~~18.12.18.08.290100~~ — 130 Aquifer recharge areas.

Aquifer recharge areas are particularly susceptible to contamination and degradation from land use activities. Areas which have a high potential for ground water resource degradation are identified as aquifer recharge areas under this section and shall be subject to the requirements herein.

A. Designation/Classification. For the purposes of this section, the boundaries of any aquifer recharge areas within the city shall consist of the two highest DRASTIC zones which are rated 180 and above on the DRASTIC index range. Any site located within these boundaries is included in the aquifer recharge

area.

B. Regulation.

1. Hydrogeologic Assessment Required. The following land uses shall require a hydrogeologic assessment of the proposed site if the site is located within an aquifer recharge area:

a. Hazardous substance processing and handling;

b. Hazardous waste treatment and storage facility;

c. Wastewater treatment plant sludge disposal categorized as S-3, S-4 and S-5; d. Solid waste disposal facility.

2. Hydrogeologic Assessment Minimum Requirements. A hydrogeologic assessment shall be submitted by a firm, agent or individual with experience in geohydrologic assessments and shall contain, at a minimum, and consider the following parameters:

a. Documentable information sources; ~~18.12.18.08.11018-32b.~~ Geologic data pertinent to well logs or borings used to identify information;

c. Ambient ground water quality;

d. Ground water elevation;

e. Depth to perched water table, including mapped location;

f. Recharge potential of facility site, respective to permeability and transmissivity;

g. Ground water flow vector and gradient;

h. Currently available data on wells and any springs located within 1,000 feet of the facility site;

i. Surface water location and recharge potential;

j. Water supply source for the facility;

k. Analysis and discussion of the effects of the proposed project on the ground water resource;

l. Proposed sampling schedules;

m. Any additional information that may be required or requested by the Pierce County environmental health department.

3. Review of Geohydrologic Assessment. A geohydrologic assessment prepared under this section shall be submitted to the Pierce County department of environmental health for review and comment. Comments received by the department of health within 60 days of submittal of the assessment shall be considered by the city in the approval, conditional approval or denial of a project.

4. Findings for Consideration of Approval. A hydrogeologic assessment must clearly demonstrate that the proposed use does not present a threat of contamination to the aquifer system, or provides a conclusive demonstration that application

of new or improved technology will result in no greater threat to the ground water resource than the current undeveloped condition of the site. Successful demonstration of these findings warrants approval under this section. (Ord. 619 § 1, 1992).

~~18.12.18.08.110~~ 140 Reasonable use exceptions.

If the application of this chapter would preclude all reasonable use of a site, development may be permitted, consistent with the general purposes and intent of this chapter.

A. Information Required. An application for a reasonable use exception shall be in writing to the department director and shall include the following information:

- ~~1. A description of the area of the site which is within a critical resource area or within the setbacks or buffers as required under this title;~~
- ~~2. The area of the site which is regulated under the respective setbacks (minimum yards) and maximum impervious coverage of the zoning code (GHMC Title 17);~~
- ~~3. An analysis of the impact that the amount of development proposed would have on the critical area as defined under this title;~~
- ~~4. An analysis of whether any other reasonable use with less impact on the critical area and buffer area, as required, is possible;~~
- ~~5. A design of the project as proposed as a reasonable use so that the development will have the least practicable impact on the critical area;~~
- ~~6. A description and analysis of the modification requested of the minimum requirements of this title to accommodate the proposed development;~~
- ~~7. Such other information as may be required by the department which is reasonable and necessary to evaluate the reasonable use respective to the proposed development.~~

B. Findings for Approval of Reasonable Use Exception. If an applicant successfully demonstrates that the requirements of this title would deny all reasonable use of a site, development may be permitted. The department director shall make written findings as follows:

- ~~1. There is no feasible alternative to the proposed development which has less impact on the critical area;~~
- ~~2. The proposed development does not present a threat to the public health, safety or welfare;~~
- ~~3. Any modification of the requirements of this title shall be the minimum necessary to allow for the reasonable use of the property;~~
- ~~4. The inability of the applicant to derive a reasonable use of the property is not the result of actions by the applicant which resulted in the creation~~

~~of the undevelopable condition after the effective date of this title;~~

~~5. The proposal mitigates the impacts to the critical area to the maximum extent practicable, while maintaining the reasonable use of the site;~~

~~6. That all other provisions of this chapter apply excepting that which is the minimum necessary to allow for the reasonable use of the site or property.~~

The director may impose any reasonable conditions on the granting of the reasonable use exception, consistent with the minimum requirements of this chapter.

C. Notification of Decision. A decision by the director under this section shall be provided, in writing, to the applicant and all property owners

Gig Harbor Municipal Code 18.12.18.08.140 18.33 (Revised 10/96)

adjacent to or abutting the site. The applicant shall be responsible for providing a current listing of all adjacent property owners along with application for a reasonable use exception.

D. Appeal of Director's Decision. The decision of the director may be appealed in accordance with the procedures established under GHMC Title 19.

E. Limits of Applying Reasonable Use Exception. A reasonable use exception shall only be considered in those situations where a reasonable use would be prohibited under this title. An applicant who seeks an exception from the minimum requirements of this title shall request a variance under the provisions of this title.

F. Time Limitation. A reasonable use exception shall be valid for a period of two years, unless an extension is granted by the department at least 30 days prior to the expiration date. Any extension granted shall be on a one-time basis and shall be valid for a period not to exceed one year. The time limit is void if the applicant fails to procure the necessary development permit within the time allotted. The department may grant a time extension if:

- ~~1. Unforeseen circumstances or conditions necessitate the extension of the development exception; and~~
- ~~2. Termination of the development exception would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and~~
- ~~3. The extension of the development exception will not cause adverse impacts to environmentally sensitive areas. (Ord. 727 § 4, 1996; Ord. 619 § 1, 1992).~~

XXXI. ~~18.12.18.08.300120–150~~ Maintenance of existing structures and developments.

Structures and developments lawfully existing prior to the adoption of this section shall be allowed to be maintained and repaired without any additional review procedures under this title; provided, that the maintenance or repair activity itself remains consistent with the provisions of this chapter and does not increase its nonconformity of such structures or development. Additionally, such construction activity shall not prove harmful to adjacent properties. Maintenance consists of usual actions necessary to prevent a decline, lapse or cessation from a lawfully established condition. Repair consists of the restoration of a development comparable to its original condition within two years of sustaining damage or partial destruction. Maintenance and repair shall include damage incurred as a result of accident, fire or the elements. Total replacement of a structure or development which is not common practice does not constitute repair. In addition to the requirements of this section, the requirements of Chapter 17.68 GHMC (Nonconformities) shall apply. (Ord. 619 § 1, 1992).

XXXII. ~~18.12.18.08.310130–160~~ Exemptions from development standards.

Certain activities and uses may be of such impact and character or of such dependency to the maintenance and welfare of a lawfully permitted use that the requirements of this title shall not apply and may be waived at the discretion of the department.

Notwithstanding the requirements of Title 17 GHMC, the following uses and activities are exempt from the requirements of this chapter:

~~A. Minimum actions necessary to protect life or property in an emergency situation. Qualification as an emergency shall be based upon the factual occurrence of imminent threat or danger; Emergency actions which must be undertaken immediately or for which there is insufficient time for full compliance with this chapter where necessary to:~~

1. Prevent an imminent threat to public health or safety, or
2. Prevent an imminent danger to public or private property, or
3. Prevent an imminent threat of serious environmental degradation.

The department shall determine on a case-by-case basis emergency action which satisfies the general requirements of this subsection. In the event a person determines that the need to take emergency action is so urgent that there is insufficient time for review by the department, such emergency action

may be taken immediately. The person undertaking such action shall notify the department within one working day of the commencement of the emergency activity. Following such notification the department shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the department determines that the action taken or part of the action taken is beyond the scope of allowed emergency action, enforcement action according to provisions of this chapter is warranted.

B. Public and private pedestrian trails which consist of a pervious surface not exceeding four feet in width;

C. Science research and educational facilities, including archaeological sites and attendant excavation, which do not require the construction of permanent structures or roads for vehicle access;

D. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities; ~~Subsurface drilling for geologic exploration associated with a proposed development which is not exempt from the requirements of this title;~~

E. The placement of signs consistent with Chapter 17.80 GHMC. (Ord. 619 § 1, 1992);

F. Existing and ongoing agricultural activities, as defined in this chapter;

G. Forestry practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practice regulations;

H. Activities affecting a hydrologically isolated Category IV wetland, if the functional wetland size is less than ~~2,500~~ 1,000 square feet, except that such activities shall comply with the city flood hazard construction code and the city storm drainage management plan;

I. Maintenance, operation and reconstruction of existing roads, streets, utility lines and associated structures, provided that reconstruction of any such facilities does not extend outside the scope of any designated easement or right-of-way;

J. Activities on improved roads, rights-of-way, easements, or existing driveways;

K. Normal maintenance and reconstruction of structures, provided that reconstruction may not extend the existing ground coverage;

L. Activities having minimum adverse impacts on wetlands, such as passive recreational uses, sport fishing or hunting, scientific or educational activities;

XXXIII. ~~18.12.18.08.140–170320~~ Variances from the minimum requirements.

A. Variance applications shall be considered by the city according to variance procedures described in

Chapter 17.66 GHMC and shall be processed as a Type III application under the permit processing procedures of GHMC Title 19. The required showings for a variance shall be according to this section. The burden is upon the applicant in meeting the required showings for the granting of a variance.

B. The examiner shall have the authority to grant a variance from the provisions of this chapter, ~~including variance for buffer widths,~~ when, in the opinion of the examiner, the conditions as set forth in this section have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this chapter.

1. Required Showings for a Variance. Before any variance may be granted, it shall be shown:

~~18.12.18.08.150~~
(Revised 10/96) **18-34**

a. That there are special circumstances applicable to the subject property or the intended use such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a variance from the minimum requirements; and

b. That such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which, because of the ordinance codified in this chapter, is denied to the property in question; and

c. That the granting of such variance will not be materially detrimental to the public welfare.

~~2. Required Showings for Buffer Area Variance. Before any buffer area variance may be granted, it shall be shown:~~

~~a. Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property, but which because of this regulation is denied to the property in question; and~~

~~b. The granting of the buffer width variance will not adversely affect the subject site be materially detrimental to the public welfare; and~~

~~c. The granting of the buffer width variance will not materially affect the subject critical area.~~

2.3. Granting a Variance. When granting a variance, the examiner shall determine that the circumstances do exist as required by this section, and attach specific conditions to the variance which will serve to accomplish the standards, criteria and policies established by this chapter.

4C. To apply for a variance, the applicant shall submit to the city a complete variance application. Such application shall include a site plan, pertinent

information, a cover letter addressing the required showings for a variance and required fees. (Ord. 727 § 5, 1996; Ord. 619 § 1, 1992).

XXXIV.18.08.140330 Reasonable use exceptions.

If the application of this chapter would preclude all reasonable use of a site, development may be permitted, consistent with the general purposes and intent of this chapter.

A. Information Required. An application for a reasonable use exception shall be in writing to the department director and shall include the following information:

1. A description of the area of the site which is within a critical resource area or within the setbacks or buffers as required under this title;

2. The area of the site which is regulated under the respective setbacks (minimum yards) and maximum impervious coverage of the zoning code (GHMC Title 17);

3. An analysis of the impact that the amount of development proposed would have on the critical area as defined under this title;

4. An analysis of whether any other reasonable use with less impact on the critical area and buffer area, as required, is possible;

5. A design of the project as proposed as a reasonable use so that the development will have the least practicable impact on the critical area;

6. A description and analysis of the modification requested of the minimum requirements of this title to accommodate the proposed development;

7. Such other information as may be required by the department which is reasonable and necessary to evaluate the reasonable use respective to the proposed development.

B. Findings for Approval of Reasonable Use Exception. If an applicant successfully demonstrates that the requirements of this title would deny all reasonable use of a site, development may be permitted. The department director shall make written findings as follows:

1. There is no feasible alternative to the proposed development which has less impact on the critical area;

2. The proposed development does not present a threat to the public health, safety or welfare;

3. Any modification of the requirements of this title shall be the minimum necessary to allow for the reasonable use of the property;

4. The inability of the applicant to derive a reasonable use of the property is not the result of actions by the applicant which resulted in the creation of the undevelopable condition after the effective

date of this title;

5. The proposal mitigates the impacts to the critical area to the maximum extent practicable, while maintaining the reasonable use of the site;

6. That all other provisions of this chapter apply excepting that which is the minimum necessary to allow for the reasonable use of the site or property. The director may impose any reasonable conditions on the granting of the reasonable use exception, consistent with the minimum requirements of this chapter.

C. Notification of Decision. A decision by the director under this section shall be provided, in writing, to the applicant and all property owners adjacent to or abutting the site. The applicant shall be responsible for providing a current listing of all adjacent property owners along with application for a reasonable use exception.

D. Appeal of Director's Decision. The decision of the director may be appealed in accordance with the procedures established under GHMC Title 19.

E. Limits of Applying Reasonable Use Exception. A reasonable use exception shall only be considered in those situations where a reasonable use would be prohibited under this title. An applicant who seeks an exception from the minimum requirements of this title shall request a variance under the provisions of this title.

F. Time Limitation. A reasonable use exception shall be valid for a period of two years, unless an extension is granted by the department at least 30 days prior to the expiration date. Any extension granted shall be on a one-time basis and shall be valid for a period not to exceed one year. The time limit is void if the applicant fails to procure the necessary development permit within the time allotted. The department may grant a time extension if:

1. Unforeseen circumstances or conditions necessitate the extension of the development exception; and

2. Termination of the development exception would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and

3. The extension of the development exception will not cause adverse impacts to environmentally sensitive areas. (Ord. 727 § 4, 1996; Ord. 619 § 1, 1992).

18.12.18.08.150 180 Performance assurance.

A. The planning director may allow the applicant to provide a performance assurance device in lieu of constructing required mitigation measures and may require a performance assurance device to guarantee installation/construction of required

mitigation

measures within one year of the issuance of a certificate of occupancy or final inspection.

B. Performance assurance devices shall take the form of one of the following:

1. A surety bond executed by a surety company authorized to transact business in the state in a form approved by the city attorney;

2. Cash;

3. A letter of credit approved by the city attorney from a financial institution stating that the money is held for the purpose of development of the landscaping;

4. Assigned savings pursuant to an agreement approved by the city attorney.

C. If a performance assurance device is employed, the property owner shall provide the city with a nonrevocable notarized agreement granting the city and its agents the right to enter the property and perform any required work remaining undone at the expiration of the assurance device.

D. If the developer/property owner fails to carry out provisions of the agreement and the city has incurred costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit is less than the cost and expense incurred by the city, the developer shall be liable to the city for the difference. If the amount of the bond or cash deposit exceeds the cost and expense incurred by the city, the remainder shall be released. (Ord. 619 § 1, 1992).

XXXV. 18.08.XXX340 Performance Bonding.

A. As part of the contingency plan the City shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the City to ensure mitigation is fully functional.

1. A performance bond shall be in the amount of one hundred and twenty-five percent (125%) of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.

2. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the City attorney.

3. Bonds or other security authorized by this Section shall remain in effect until the City determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the City for a minimum of five (5) years to ensure that the required mitigation has been fully

implemented and demonstrated to function, and may be held for longer periods when necessary.

4. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

5. Public development proposals shall be relieved from having to comply with the bonding requirements of this Section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

6. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within thirty (30) days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the City may demand payment of any financial guarantees or require other action authorized by the City code or any other law.

7. Any funds recovered pursuant to this Section shall be used to complete the required mitigation.

XXXVI. 18.12.18.08.160-190350 Penalties and enforcement.

A. The ~~planning~~ directorCommunity Development Director shall have authority to enforce this chapter, any rule or regulation adopted, and any permit, order or approval issued pursuant to this chapter, against any violation or threatened violation thereof. The ~~planning~~ directorCommunity Development Director is authorized to issue violation notices and administrative orders, levy fines and/or institute legal actions in court. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this chapter, or any rule or regulation adopted, or any permit, permit condition, approval or order issued pursuant to this chapter, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense. All costs, fees and expenses in connection with enforcement actions may be recovered as damages against the violator.

B. The ~~planning~~ directorCommunity Development Director may serve upon a person a cease and desist order if any activity being undertaken in a designated critical area or its buffer is in violation of this chapter. Whenever any person violates this chapter or any approval issued to implement this chapter, the ~~planning~~ directorCommunity Development Director may issue an order reasonably appropriate to cease such violation and to mitigate any environmental damage resulting therefrom.

~~B~~ C. Any person who undertakes any activity within a designated critical area or within a required buffer without first obtaining an approval required by this chapter, except as specifically exempted, or any person who violates one or more conditions of any approval required by this chapter or of any cease and desist order issued pursuant to this chapter shall incur a civil penalty as provided for in Chapter 17.07 GHMC.

D. The city's enforcement of this chapter shall proceed according to Chapter 17.07 GHMC.

~~assessed per violation. In the case of a continuing violation, each permit violation and each day of activity without~~

~~a required approval shall be a separate and distinct violation. The civil penalty shall be assessed at a rate of \$50.00 per day per violation. The penalty provided shall be appealable to the city of Gig Harbor hearing examiner in accordance with the **Gig Harbor Municipal Code 18.12.18.08.180 18-35**~~

~~procedures established pursuant to Chapter 15.06 GHMC. (Ord. 619 § 1, 1992).~~

18.12.18.08.170-200 Severability.

~~If any section, sentence, clause or phrase of this chapter, or the statutes adopted herein by reference, should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter. (Ord. 619 § 1, 1992).~~

18.12.18.08.180-210 Chapter and ordinance updates.

~~This chapter and its related ordinance shall be reviewed by the city of Gig Harbor within two years of the effective date of this chapter. The purpose~~

~~of reviewing is to determine what amendments are appropriate to be made, and to establish a schedule for effecting those amendments. (Ord. 619 § 1, 1992).~~

XXXVII. 18.08.XXX360 Suspension and revocation.

In addition to other penalties provided elsewhere, the department may suspend or revoke an approval if it finds that the applicant has not complied with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval, or has failed to undertake the project in the manner set forth in the approved application. (Ord. 611 § 1, 1991).

XXXVIII. 18.08.~~xxx~~370 Nonconforming uses.

An established use of existing structure that was lawfully permitted prior to adoption of this chapter, may continue subject to the following:

A. Nonconforming uses shall not be expanded or changed in any way that increases their nonconformity. However, an existing use may be changed to a less intensive use provided all other zoning and land use regulations are met;

B. Existing structures shall not be expanded or altered in any manner which will increase the nonconformity;

C. Activities or uses which are discontinued for 12 consecutive months shall be allowed to resume only if they are in compliance with this chapter; and

D. Nonconforming uses or structures destroyed by an act of God may be replaced or resumed. (Ord. 611 § 1, 1991).

Exhibit B

CITY OF GIG HARBOR 2004 CRITICAL AREAS UPDATE

Findings of Fact

The Growth Management Act requires the adoption of development regulations that protect critical areas designated in accordance with RCW 36.70A.170.

RCW 36.70A.172 requires local governments to include the best available science in developing policies and development regulations to protect the functions and values of critical areas and to give special consideration to the conservation and protection measures necessary to preserve or enhance anadromous fisheries.

Critical areas include wetlands, areas with a critical recharging effect on aquifers used for potable water, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

The City of Gig Harbor hired the environmental consultants Adolfson Associates, Inc., and Associated Earth Sciences, Inc., to evaluate a wide range of sources of best science available with respect to the City's critical areas and to make recommendations that meet the intent of the Growth Management Act and are also reflective of local needs and conditions.

The review of applicable best available science and local conditions are documented in the following technical memoranda: *Gig Harbor Comprehensive Plan Update - Geologic and Flood Hazard Areas; Aquifer Recharge Areas – Phase I*, July 23, 2004 prepared by Associated Earth Sciences, Inc., included as Attachment 1, and *Final Best Available Science Technical Memorandum*, June 8, 2004 prepared by Adolfson Associates, Inc., included as Attachment 2. Best available science sources are listed in each memorandum.

Adolfson Associates, Inc., and Associated Earth Sciences, Inc., reviewed existing policies and development regulations with respect to best available science documentation and recommended amendments to city code and policies consistent with the documentation and the GMA. These recommendations were tailored to the local setting to recognize the urban character of Gig Harbor.

Proposed amendments to the policies of the Comprehensive Plan and the Gig Harbor Municipal Code based on the best available science documentation were reviewed by the Planning Commission at four study sessions on October 7, 2004, October 21, 2004, November 4, 2004, and November 18, 2004. The study sessions were advertised and open to the public. The Planning Commission held a public hearing on November 4, 2004, which was advertised in accordance with City notification requirements.

The Planning Commission recommended amendments to the Comprehensive Plan and Gig Harbor Municipal Code (GHMC) included departures from the best available science recommendations by Adolfson Associates, Inc. These departures include:

1. Amending the recommended minimum buffer width for Category III wetlands from 60 feet to 50 feet (draft Section 18.08.100 GHMC);
2. Amending the recommended minimum buffer width for Category IV wetlands from 35 feet to 25 feet (draft Section 18.08.100 GHMC);
3. Amending the recommended minimum wetland buffer requirements when buffer reductions are allowed from 70 percent to 55 percent of the standard width (draft Section 18.08.110 GHMC); and
4. Amending the recommended criteria for wetland buffer reductions to exclude from eligibility buffers that are degraded due to a documented code violation.

Departures 1 and 2 are supported in the Planning Commission record as being necessary to meet planned residential densities and achieve the growth projections for the City, i.e., balancing the requirements of the Growth Management Act. Potential impacts of Departures 1 and 2 are mitigated by a code provision to increase the buffer from the standard if necessary, based on best available science, to maintain viable populations of existing species; if endangered, threatened, sensitive or as documented priority species or habitats, or essential or outstanding habitat sites are present; or if required due to geotechnical considerations.

Adolfson Associates proposed new buffer reduction approval criteria that must be addressed in a buffer enhancement plan to offset potential adverse impacts of the buffer reduction allowance (Departure 3) recommended by the Planning Commission. Proposed approval criteria for wetland buffer reductions limit reductions to degraded buffers and include determinations of no harm to wildlife and property and enhancement of habitat, drainage and water quality.

Proposed amendment 4 increases regulatory restrictions and is not a departure from best available science.

The Gig Harbor City Council held a public hearing on the Planning Commission's recommended amendments to critical area policies and regulations on November 22, 2004, December 13, 2004, and November 28, 2005.

The City of Gig Harbor received comments from State Washington Department of Ecology (Ecology) in a letter from Ms. Gretchen Lux dated November 22, 2004 and February 1, 2005. Ecology commented on the proposed wetland rating system, exemption for small wetlands, and wetland buffers proposed. Adolfson Associates and City staff considered recommendations from Ecology and revised regulations to include the wetland rating system and narrower provisions for the exemption language for small wetlands.

The City of Gig Harbor has adopted policies and codes to protect the functions and values of critical areas. These are shown in Findings of Fact Attachment 3. In addition, critical areas may be protected by other actions of the City of Gig Harbor, such as stormwater management standards, critical area restoration, and public education; and from external regulations, such as the Forest Practices Act.

Attachment 1

Associated Earth Sciences, Inc.

July 23, 2004
Project No. KE04196A

AHBL
2215 North 30th Street, Suite 300
Tacoma, Washington 98403

RECEIVED

JUL 27 2004

AHBL, INC.

Attention: Mr. Mike Katterman, ACIP

Subject: Gig Harbor Comprehensive Plan Update
Geologic and Flood Hazard Areas; Aquifer Recharge Areas
Phase I

Dear Mr. Katterman:

Associated Earth Sciences Inc. (AESI) is pleased to present this letter providing the results of our Phase I assessment of the Gig Harbor Critical Areas Ordinance, in particular our preliminary review of the Geologic Hazard Areas, Flood Hazard Areas, and Aquifer Recharge Areas. This work has been performed in general accordance with AHBL's proposal to the City of Gig Harbor dated April 2, 2004. The purpose of the Phase I scope of work with respect to critical areas was: 1) review the literature on best available science (BAS) and existing inventory information relevant to Gig Harbor, and 2) review the Critical Areas Ordinances for consistency with BAS cited above.

Literature Inventory

The following documents were reviewed or citations noted as part of the Phase I scope of work:

1. *Model Critical Areas Regulations and Review Procedures (Draft)*, dated February 20, 2003 prepared by the Washington State Office of Community Development.
2. *Citations of Recommended Sources of Best Available Science For Designating and Protecting Critical Areas*, dated February 2002 prepared by the Washington State Office of Community Development.
3. *Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances*, dated December 1998 prepared by the Washington State Department of Ecology.

4. Smith, Mackey, *Relative Slope Stability of Gig Harbor Peninsula, Pierce County, Washington*, Washington Division of Geology and Earth Resources Geologic Map GM-18 dated 1976.
5. *The Coastal Zone Atlas of Pierce County*, dated December 1979 prepared by the Washington State Department of Ecology.
6. *Water Resources and Geology of the Kitsap Peninsula and Certain Adjacent Lands*, Washington State Department of Conservation, Division of Water Resources, Water Supply Bulletin No. 18, Plate One dated 1962.
7. Pierce County Critical Area Maps Entitled, *Slope Stability, Aquifer Recharge Areas, Flood Hazard Areas, Steep Slopes, Landslide Hazard Areas, Landslide and Erosion Hazard Areas* and *Gig Harbor Community Plan Update, Land Use Designations* from the Pierce County Web Site Map Gallery.
8. *Soil Survey of Pierce County*, dated February 1979 prepared by the United States Department of Agriculture, Soil Conservation Service.
9. Shipman, Hugh, *Coastal Landsliding on Puget Sound: A Review of the Landslides Occurring Between 1996 and 1999*, dated 2001 prepared by the Washington State Department of Ecology, Report #01-06-019.
10. Thorsen, G.W., *Landslide Provinces in Washington*, 1989 in Engineering Geology in Washington prepared by the Washington Division of Geology and Earth Resources, Washington Department of Natural Resources.

Best Available Science Inventory

The City of Gig Harbor has developed their own critical areas regulations in the Gig Harbor Municipal Code (GHMC Chapter 18.12) but relies on the Pierce County critical area maps to identify their known critical areas. These maps and the sources used to produce these Pierce County maps were reviewed and compared to the BAS inventory listed in the *Literature Inventory* section presented above.

- Landslide and Erosion Hazard Areas

The sources for the Pierce County *Slope Stability, Landslide and Erosion Hazard Areas, Landslide Hazard Areas and Steep Slopes* maps are listed as the following publications:

1. Washington State Department of Ecology Coastal Zone Atlas, 1979
2. Soil Survey of Pierce County, 1979
3. Pierce County Digital Orthophotography, 2001

The various Pierce County maps that deal with slope stability and landslide hazards do not always agree on where the critical areas in Gig Harbor are located. These maps rely largely upon the Coastal Zone Atlas that does a good job of mapping landslide or unstable areas on the coast but does not provide maps for inland areas. Another problem with the Pierce County maps is that they are at such a large scale that it is difficult to locate a particular site or address to determine if the site is in a critical area. Also Pierce County does not provide a map that shows the areas classified as hillsides, ravine sidewalls and bluffs (GHMC Chapter 18.12.050) which is peculiar to the GHMC.

We proposed four action items for updating the landslide and erosion hazard area maps and for creating a hillside, ravine sidewalls and bluffs map.

- a) Compare all the various Pierce County maps dealing with landslide hazards and compose a composite map for Gig Harbor that clearly shows the known hazard areas.
- b) Review document number 4 in the literature inventory list and add that information into the updated map.
- c) Produce the updated map at a smaller scale that does not extend much beyond the city limits and that shows streets and other landmarks so that properties can be easily located by the public.
- d) Use existing topography maps to prepare a hillside, ravine sidewall and bluff critical area map at a useable scale with streets and known landmarks.

- Flood Hazard Areas

Flood Hazard Areas are defined in Chapter 18.12.080 of the GHMC and are based on the Federal Emergency Management Administration (FEMA) flood insurance rate maps. The Pierce County Flood Hazard Area Map is also based on this same source, which is the predominant document for identifying flood hazard areas and represents the BAS in this area. Like the landslide hazard maps, the flood hazard map for Pierce County is at too large a scale to be useful to the public.

We proposed two action items for updating the flood hazard area maps for the City of Gig Harbor:

- a) Review the recent FEMA database to confirm that the flood maps have not changed since the Pierce County maps were produced.
- b) AESI should be provided a copy of the report entitled "The Flood Insurance Study for the City of Gig Harbor" dated March 22, 1981 and the accompanying flood insurance maps for our review.

- c) Produce an updated map at a smaller scale that does not extend much beyond the city limits and that shows streets and other landmarks so that properties can be easily located by the public.

- **Aquifer Recharge Areas**

The aquifer recharge areas of Pierce County in the vicinity of Gig Harbor are based on the DRASTIC model and on the wellhead protection source area reference on file with the Tacoma-Pierce County Health Department. The DRASTIC model is a computer model produced by the United States Environmental Protection Agency (EPA) to identify areas of ground water recharge that are susceptible to contamination. From review of the Pierce County Aquifer Recharge Area Map, it appears that most of the aquifer recharge areas identified in the vicinity of Gig Harbor are based on wellhead protection zones. This conclusion is based on the circular shapes of the aquifer recharge areas that are typical for a wellhead protection area based on a standard fixed radius analysis.

- We proposed two action items for updating the flood hazard area maps for the City of Gig Harbor:
 - a) Review published geologic maps that include Gig Harbor to determine if other areas within the city should be protected based on geologic and hydrogeologic factors other than protecting domestic water supply wells.
 - b) Produce an updated map at a smaller scale that does not extend much beyond the city limits and that shows streets and other landmarks so that properties can be easily located by the public.

Critical Areas Ordinance Review

AESI reviewed the GHMC Chapter 18.12, Sections 18.12.010 through 18.12.180 and Chapter 15.04, Sections 15.04.010 through 15.04.090. In general the ordinance appears to be fairly complete. Based on our review, we have the following comments:

1. Section 18.12.050A1(a): We recommend that the section on buffers be changed to read as follows: "Buffers. A 50-foot undisturbed buffer of natural vegetation shall be established and maintained from the top, toe and sides of all ravine sidewalls and bluffs 50 feet high or less. For ravine sidewalls and bluffs greater than 50 feet high, the width of the buffer shall be equal to the height of the ravine sidewalls or bluffs. All buffers shall be measured on a horizontal plane."
2. Section 18.12.050A2(a): We recommend that a geologist or engineering geologist licensed in the State of Washington be added to the list of professionals able to prepare the site analysis reports.

3. Section 18.12.060A: We recommend that the section be changed to read as follows:
"...shall be accompanied by a geotechnical report prepared by a geologist or engineering geologist licensed in the State of Washington or a geotechnical engineer licensed as a civil engineer in the State of Washington. If it ..."
4. Section 18.12.100A: This section may be revised depending upon the results of the BAS review recommended above.
5. Section 15.04.090: We recommend this section be revised to read: "... a further review must be made by persons licensed as a geologist, engineering geologist or geotechnical engineer in the State of Washington; and the proposed new ...".

We appreciate the opportunity to be of service to you on this project. Should you have any questions regarding this letter, please call us at your earliest convenience.

Sincerely,
ASSOCIATED EARTH SCIENCES, INC.
Kirkland, Washington



Jon N. Sondergaard, P.G., P.E.G.
Senior Associate Geologist

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Attachment 2

MEMORANDUM



Environmental Solutions

DATE: June 8, 2004
TO: Mike Katterman, AHBL Inc.
FROM: Teresa Vanderburg, Ilon Logan
CC: Kent Hale
RE: Final Best Available Science Technical Memorandum

1.0 INTRODUCTION

1.1 Project Authorization

On behalf of the City of Gig Harbor, Adolfson Associates, Inc. (Adolfson) has prepared this technical memo to provide a brief overview of the "best available science" pertaining to management of critical areas and its application to urban environments such as those found in the City of Gig Harbor (the City). This paper will provide guidance to the City in development and revision of the Gig Harbor Municipal Code (GHMC) Title 18 Environment regarding streams, wetlands, and critical fish and wildlife habitat areas (City of Gig Harbor, 2001a). Shorelines of the state are described separately in another document prepared for the City, the *City of Gig Harbor Draft Shoreline Characterization* (Adolfson, 2003).

Rules promulgated under the 1990 Washington State's Growth Management Act (GMA) (RCW 360.70A.060) required counties and cities to adopt development regulations that protect the functions and values of critical areas, including streams, wetlands, wildlife habitat, and critical aquifer recharge areas. In 1995, the Washington State legislature added a new section to the GMA to ensure that counties and cities consider reliable scientific information when adopting policies and development regulations to designate and protect critical areas. As a result of this legislation, in 2000 the Growth Management Division of Washington's Office of Community Development (OCD) adopted procedural criteria to guide cities and counties in identifying and including the "best available science" (BAS) in their critical area policies and regulations in accordance with RCW 36.70A.172(1).

This paper discusses the results of a limited BAS review for streams, wetlands, and critical fish and wildlife habitat areas and evaluates the applicability of the science to these critical areas in the City. The information is a summary of existing literature and is not intended to be an exclusive list of all BAS currently published, but is intended to provide a brief overview of published information useful for local planning and regulatory review. Adolfson has based our review of the City environment on existing literature, and preliminary information from the City. No field investigations were conducted as part of this review. At the City's direction, Adolfson

has limited its effort in this phase of the critical areas ordinance update to conserve funds for the second phase involving the revisions to the regulations.

1.2 Overview of the City Environment

The City of Gig Harbor is an urbanizing city located on the Gig Harbor Peninsula at the southern end of Puget Sound in Pierce County, Washington. The City encompasses an area of approximately four square miles and has an estimated population of 6,575 (as of August 2000). An additional five square miles of unincorporated land lies within the City's urban growth area (UGA). The City is bordered by Henderson Bay to the northwest, unincorporated Pierce County to the west, south and north, and Puget Sound to the east.

2.0 STATE OF THE SCIENCE FOR STREAMS AND RIPARIAN BUFFERS

2.1 Functions and Values of Streams

The important functions provided by streams include: maintaining stream baseflows; maintaining water quality; providing in-stream structural diversity; and providing biotic input of insects and organic matter. Stream baseflows are maintained by surface water that flows into riparian areas during floods or as direct precipitation and infiltrates into groundwater in riparian areas to be stored for later discharge to the stream (Ecology, 2001a) particularly during the region's typically dry season (Booth, 2000; May et al., 1997a). Urbanization changes the volume, rate, and timing of surface water flowing through stream systems, which can impact the physical characteristics of the stream channel (Booth, 1991). In addition, several studies have found that stream degradation has been associated with the quantity of impervious surface in a basin (Booth, 2000; May et al., 1997a; May et al. 1997b; Horner and May, 2000).

Low stream temperature and high water quality are critical elements of essential habitat for all native salmonid fish. Riparian vegetation, particularly forested riparian areas, can affect water temperature by providing shade to reduce solar exposure and regulate high ambient air temperatures, ameliorating water temperature increases (Brazier and Brown, 1973; Corbett and Lynch, 1985). Dissolved oxygen is one of the most influential water quality parameters for stream biota, including salmonid fish (Lamb, 1985). The most significant factor affecting dissolved oxygen levels in most streams is temperature, with cooler waters maintaining higher levels of oxygen than warmer waters (Lamb, 1985). Common pollutants in urban areas that affect water quality include nutrients such as phosphorus and nitrogen, pesticides, bacteria, and miscellaneous contaminants such as PCBs and heavy metals. In general, concentrations of pollutants increase in direct proportion to total impervious area (May, et al., 1997a).

Substrate quality, pool quality and quantity, and floodplain connectivity and off-channel refugia are general habitat elements that support many species of salmonid fish. The National Marine Fisheries Service (NMFS, 1996) and U.S. Fish and Wildlife Service (USFWS, 1998) have developed guidelines to address physical habitat elements necessary to support healthy salmonid

populations under variable conditions. Most of the research has been done in rural environments; however, these represent the BAS for urban environments at this time.

Riparian areas provide food for salmonids, both directly and indirectly through biotic input (Meehan et al., 1977). Many species of aquatic invertebrates have become adapted to feed on dead and decomposing organic material that has fallen or washed into the stream from adjacent uplands (Benfield and Webster, 1985). Most juvenile salmonids that rear in streams prey on terrestrial insects that fall into streams from overhanging vegetation or aquatic invertebrates (Horner and May, 1999; May et al., 1997a). Undisturbed riparian areas can retain sediments, nutrients, pesticides, pathogens, and other pollutants that may be present in stormwater runoff, protecting water quality in streams (Ecology, 2001a).

2.2 Function and Values of Riparian Buffers

Riparian buffers along stream banks help mitigate the impacts of urbanization and disturbance on adjacent lands (Finkenbine et al., 2000 in Bolton and Shellberg, 2001). Knutson and Naef (1997) summarize many of the functions of riparian buffers for Washington. The Washington Department of Fish and Wildlife's (WDFW) recommended standard buffer widths for the state's five-tier stream typing system are based on this latter research (OCD, 2002). Table 1 identifies the ranges for recommended buffer widths from two of the papers used in the development of the WDFW recommended buffers. Buffer widths reported to be effective for riparian functions vary considerably; the literature is not definitive in identifying one buffer width for each function studied (Williams and Lavey, 1986; Johnson and Ryba, 1992).

Table 1. Range of Effective Buffer Widths Based on Scientific Literature

Function	Riparian Buffer Functions and Appropriate Widths Identified by May (2000)	Riparian Buffer Functions and Appropriate Widths Identified by Knutson and Naef (1997)
Sediment Removal/Erosion Control	26 - 600 feet	N/A
Sediment Removal	N/A	26 - 300 feet
Erosion Control	N/A	100 - 125 feet
Pollutant Removal	13 - 860 feet	13 - 600 feet
Large Woody Debris	33 - 328 feet	100 - 200 feet
Water Temperature	36 - 141 feet	35 - 151 feet
Wildlife Habitat	33 - 656 feet	25 - 984 feet

A general relationship between buffer width and buffer effectiveness is apparent in the research findings. Studies indicate that buffers 100-to 150-feet (30 to 45 meters) wide provide most (on the order of 80 percent) of the potential functions (Horner and May, 2000; Knutson and Naef, 1997; and Leavitt, 1998).

2.3 Stream Management in Urban Environments

Two recent studies have focused on the general effects of urbanization on streams in the lowland Puget Sound region; Booth, 2000, and Horner and May, 1999. In these studies, a general trend has emerged that places a greater emphasis on evaluation of buffer effectiveness in the context of other watersheds and evaluation of landscape-level alterations to watersheds (Roni et al., 2002; Richards et al., 1996). For example, restoration of the natural woody debris recruitment function of riparian areas is difficult in areas that lack mature forested streamside vegetation (Larson, 2000). Booth, 2000 and Horner and May, 1999 recommend that new watershed-based strategies may need to be implemented that would address hydrology, water quality, and riparian functions to successfully address management of buffer width and quality, land use controls, and stormwater management. When applied in the context of a basin-wide change, these strategies may most effectively address protection, enhancement, and restoration of stream systems as opposed to prescriptive buffers. In terms of fish habitat restoration, barriers like lengthy and/or inappropriately installed culverts and stormwater control structures can inhibit fish migration and prohibit fish from accessing upstream habitats. Restoring fish passage is an effective way to increase the quality and accessibility of habitat and can result in relatively large increases in potential fish production at a nominal cost (Roni et al., 2002).

2.4 Fisheries Habitat and Salmonid Use in the City of Gig Harbor

2.4.1 Streams in the City of Gig Harbor

The City of Gig Harbor can be divided into six drainage basins: North/Donkey Creek, Gig Harbor, Bitter/Garr/Wollochet Creek, Gooch/McCormick Creek, Crescent Creek, and Puget Sound. The City's *Stormwater Comprehensive Plan* (2001b) describes the major streams found in these drainage basins and provides an assessment of their functions. The major streams include: Crescent Creek, North/Donkey Creek, Gooch Creek, McCormick Creek, Bitter Creek, and Garr Creek. All the creeks eventually discharge into Puget Sound. There is generally less than three miles to their headwaters with steep descents over short distances (City of Gig Harbor, 2001b).

None of the streams in the City of Gig Harbor are currently listed on the Washington State Department of Ecology's (Ecology) 1998 303(d) list, which lists streams that do not meet water quality standards for one or more parameters (Ecology website, 2004). Water quality sampling in the Key Peninsula/Gig Harbor/Island (KGI) watersheds has been undertaken by Stream Team volunteers and by URS Corporation technicians on behalf of Pierce County Water Programs (KGI Watershed Interim Council, 2001). Samples were taken on June 1, 2000 and July 31, 2001. Fecal coliform bacteria levels in Crescent Creek were found to be in excess of the state water quality standard of 100 cfu/100ml. Nitrate levels in Goodnough Creek were slightly elevated, with levels ranging between 1.7 and 1.86 mg/L, and likely indicate the presence of nutrients or fertilizers in the system (KGI Watershed Interim Council, 2001). Potential water quality hazards exist at marinas and boat moorage facilities due to fuel spills, increased nutrients from sewage pump-out activities, increased presence of pollutants due to hull scraping and use of anti-fouling paint on boat hulls, and high concentrations of creosote-treated wood pilings and structures.

The primary marine waters along the UGA boundary are Gig Harbor, Henderson Bay, Colvos Passage, and the Puget Sound Narrows. Burley Lagoon, a saltwater lagoon, is adjacent to Henderson Bay on Puget Sound.

2.4.2 Salmonid Fish Use in Gig Harbor

The *Salmonid habitat limiting factors: Water Resources Inventory Area (WRIA) 15 (East) Final Report* identifies the known presence of salmon in streams in the City of Gig Harbor (Haring, 2000). Chinook salmon (*Oncorhynchus tshawytscha*), listed as threatened under the ESA, are present in Crescent, Purdy, and McCormick Creeks. Chinook presence in these listed drainages are likely strays from other basins (Haring, 2000). Crescent Creek contained a historic wild run of Chinook, which ended in the 1940's (Williams et al., 1975). Chinook are still observed in Crescent Creek and are likely returns from annual plantings (Haring, 2000). Steelhead trout (*O. mykiss*) are present in Crescent, McCormick, Purdy, and Donkey Creeks. Coho (*O. kisutch*) may be found in Purdy, McCormick, Crescent, and Donkey Creeks. Chum salmon (*O. keta*) are present in Purdy, Crescent, Donkey, and McCormick Creeks. Cutthroat trout (*Salmo clarki*) are ubiquitous throughout the watershed and are believed to be present in most streams (Haring, 2000). Gig Harbor Bay and Henderson Bay provide habitat for rearing and outmigration (WDFW, 2003). Nearshore habitat is important environment for juvenile salmonids, where the shallow water depth obstructs the presence of larger, predator species (City of Gig Harbor, 2001b).

Potential forage fish spawning areas within the City are referenced in three sources: Marine Resource Species (MRS) data maintained by WDFW (2003), the *Key Peninsula, Gig Harbor, and Islands Watershed Nearshore Salmon Habitat Assessment* (Pentec Environmental, 2003), and the *Final Report: Northwest Straits Nearshore Habitat Evaluation* (Anchor Environmental and People for Puget Sound, 2002). The three forage fish species most likely to occur include surf smelt, sand lance, and Pacific herring. The different species utilize different parts of the intertidal and subtidal zones, with sand lance and surf smelt spawning primarily in the substrate of the upper intertidal zone, and Pacific herring spawning primarily on intertidal or subtidal vegetation (Anchor Environmental and People for Puget Sound, 2002). These three species account for over 50 percent of the diet of adult salmonids. Information on the three potential forage fish species within the City's jurisdiction is summarized in the *City of Gig Harbor Draft Shoreline Characterization* (Adolfson, 2003).

3.0 STATE OF THE SCIENCE FOR WETLANDS AND WETLAND BUFFERS

While estuarine and tidal habitats are considered wetlands, they fall under the jurisdiction of the Shoreline Management Act (SMA) and will be addressed under the SMA and not in this report. The *City of Gig Harbor Draft Shoreline Characterization* (Adolfson, 2003) provides information regarding estuarine and tidal wetlands in the City of Gig Harbor. This memorandum also

includes review of the Washington State Department of Ecology's draft review document summarizing best available science for freshwater wetlands (*Freshwater Wetlands in Washington State Volume 1: A Synthesis of the Science*) prepared by Sheldon et al., 2003.

3.1 Wetland Definition

Wetlands are formally defined by the Corps of Engineers (Corps) (Federal Register, 1982), the Environmental Protection Agency (EPA) (Federal Register, 1988), the Washington Shoreline Management Act (SMA) of 1971 (Ecology, 1991) and the Washington State Growth Management Act (GMA) (Ecology, 1992) as "... those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas" (Federal Register, 1982, 1986). The City of Gig Harbor Municipal Code also defines wetlands as described above (City of Gig Harbor, 2001a).

3.2 Wetland Functions and Values

Wetlands are integral parts of the natural landscape. Their "functions and values" to both the environment and to the general public depend on several elements including their size and location within a basin, as well as their diversity and quality. The functions provided by wetlands and their assigned human-based values have been identified and evaluated through several studies (Cowardin et al., 1979; Adamus et al., 1987; Mitsch and Gosselink, 2000; Reppert et al., 1979; Cooke, 2000). These functions include; flood water attenuation and flood peak desynchronization, stream base flow maintenance and groundwater support, shoreline protection, water quality improvement, biological support and wildlife habitat, and recreation, education, and open space.

Flood water attenuation and flood peak desynchronization can be aided by a wetlands ability to control flood water and stormwater flow and to slowly release it to adjacent water bodies and/or groundwater (Verry and Boelter, 1979 *in* Mitsch and Gosselink, 2000). A wetlands effectiveness in controlling flood waters is based on factors such as the storage capacity and outlet discharge capacity of the wetland relative to the magnitude of stormwater inflow (Reinelt and Horner, 1991). The loss of wetlands in urban areas affects the ability of the remaining wetland systems to function in attenuating stormwater runoff, resulting in increased flood frequency and higher peak flood flows in drainage basins (Azous and Horner, 2001; Mitsch and Gosselink, 2000; Booth, 2000). In addition, increasingly higher storm flows in urbanized basins, relative to undisturbed watersheds, can result in sediment loading of streams and destruction of habitat for fish and other aquatic organisms (Richter and Azous, 2001, Azous and Horner, 2001).

Maintaining stream flow is an important function of freshwater wetlands to stream-flow-sensitive salmonids in the Pacific Northwest. Wetlands provide baseflow during the region's typically dry season (Booth, 2000; May et al., 1997a; Mitsch and Gosselink, 2000). Many studies have found that wetland loss, reduction, and vegetation alteration reduce most wetlands' capacity to provide baseflow support to streams (Booth, 2000; Mitsch and Gosselink, 2000; Brinson, 1993).

Wetlands adjacent to waterbodies serve to provide protection for the shoreline of that stream, river, or lake. Wetlands in basins that have relatively undeveloped shorelines and stream banks that contain dense woody vegetation along the Ordinary High Water Mark (OHWM) of a lake or

stream and extend more than 200 to 600 feet from the OHWM provide the highest level of shoreline protection and erosion control. Wetlands that extend less than 200 feet provide less protection (Hruby et al., 1999; Cooke, 2000).

Removal of sediment and pollutants from stormwater are important water quality functions of wetlands (Mitsch and Gosselink, 2000; Cooke, 2000). A wetland's ability to perform water quality improvements can depend on a wetland's size, location within the basin, vegetation community structure, and productivity (Ecology, 1996).

Wetlands provide opportunities for foraging wildlife and for organisms that depend on detritus and/or organic debris for a food source (Erwin, 1990). Wetland habitats generally provide greater structural and plant diversity, more edge habitat where two or more habitat types adjoin, more varied forage, and a predictable water source that increases wildlife species abundance and diversity than upland habitats (Kauffman, et al., 2001).

In urbanizing areas, aquatic resources and adjacent uplands provide opportunities for greenways and open space. In Gig Harbor, wetlands and adjacent uplands provide important resources for wildlife viewing, passive recreation, and education about natural wetland-upland ecosystems. The *City of Gig Harbor Park, Recreation, and Open Space Plan* (City of Gig Harbor, 2001c) provides a thorough inventory of existing parks and opportunities.

3.3 Wetland Functional Assessment Methods

As described above, the functions provided by wetlands and their assigned human-based values have been identified and evaluated through many scientific studies (Cowardin et al., 1979; Adamus et al., 1987; Mitsch and Gosselink, 2000; Reppert et al., 1979; Cooke, 2000). Several functional assessment methods have been developed to identify functions performed in a wetland and evaluate the effectiveness of the wetland in performing that function. Some methods are quantitative, while others are qualitative.

Quantitative assessment methods include the US Army Corps of Engineers Hydrogeomorphic Method (HGM). HGM is based on the concept that wetland functions are driven primarily by the wetland's geomorphology (i.e., position in the landscape) and hydrologic characteristics (Brinson, 1993). In 1996, Ecology began the Washington State Wetland Function Assessment Method (WFAM) project. This functional assessment method, which was published in 1999, is a modified version of the HGM approach and is designed to provide a more scientific approach to assessing wetland functions (Hruby et al, 1999). The Washington Department of Transportation (WDOT) developed another method for rapid wetland assessments for linear projects (Null et al., 2000). Both the WFAM and the WDOT methods are cited in the OCD citations for best available science (OCD, 2002). The WDOT method is considered a qualitative method.

3.4 Wetland Rating System

In the State of Washington, Ecology has developed a wetland rating system for ranking wetlands according relative importance. This rating system is outlined in the *Washington State Wetland*

Rating System for Western Washington (Ecology 1993). Wetlands in this system are rated into four distinct categories; from Category I wetlands of highest value to Category IV wetlands of lowest value. Category I and IV wetlands are defined specifically in the rating system and Category II and III wetlands are determined by the summarized results of a rating form. The rating form uses semi-quantitative criteria such as size, level of disturbance, habitat diversity, connectivity to streams or other habitats, and buffer quality to classify wetlands. Ecology has recently released a draft of an updated wetland rating system for western Washington, which is based upon hydro-geomorphic (HGM) features (Hruby, 2004). The new wetland rating system is currently in public review.

3.5 Functions and Values of Wetland Buffers

Wetland buffers are vegetated upland areas immediately adjacent to wetlands. A scientific literature review indicates that buffer widths to protect a given habitat function or group of functions depend on numerous site-specific factors (Castelle et al., 1992a; Castelle and Johnson, 2000; FEMAT, 1993). These factors include the plant community (species, density, and age), aspect, slope, and soil type, as well as adjacent land use. Several literature reviews have been published summarizing the effectiveness of various buffer widths, mainly for riparian areas, but also for wetlands (Castelle et al., 1992a; Castelle and Johnson, 2000). Generally, the riparian buffer literature also applies to wetlands because very similar functions are provided by riparian buffers and wetland buffers. McMillan (2000) provides a recent literature review specific to wetland buffers in western Washington and evaluates land use intensity as well as wetland value when determining buffer widths.

Several studies indicate that buffers ranging from 100 to 150 feet wide provide most (on the order of 80 percent) of potential functions in most situations. In these studies, the relationship between buffer width and effectiveness is logarithmic, so that after a certain width an incremental increase in buffer width provides diminishing functional effectiveness. One study indicates that 90 percent of sediment removal can be accomplished within the first 100 feet of a riparian buffer, but an additional 80 feet of buffer is needed to remove just five percent more sediment (Wong and McCuen, 1982). However, other studies show that wildlife responses to human disturbance are varied and a buffer of 50 to 150 feet may not provide enough separation or protection (Knutson and Naef, 1997). Rather, wildlife use of wetland and riparian buffers is highly dependent upon the species and site-specific characteristics (i.e., type of wetland, geographic setting, etc.). A buffer of 200 or 300 feet or more from the aquatic resource has been documented as more appropriate for some species.

3.5.1 Wetland Mitigation & Enhancement Strategies

The Clean Water Act Section 404(b)(1) Guidelines for wetland mitigation require “no net loss” of wetlands by first avoiding, minimizing, rectifying, and reducing impacts to wetlands and their functions. Where loss of wetland acreage and/or functions is necessary, replacement or compensatory mitigation should be required. In compliance with GMA, the majority of local jurisdictions in Washington implement these guidelines through local critical area regulations.

Off-site and out-of-kind wetland mitigation has also been allowed by agencies in certain cases. The U.S. Army Corps of Engineers (Corps) and other agencies have allowed off-site mitigation of wetlands, and there has been growing interest in mitigation banks in Washington. Mitigation banking may give developers additional options for mitigation and banking also allows creation or preservation of larger and higher quality wetlands than might have been established on any one development site. The *Critical Areas Assistance Handbook* also includes mitigation banking as an allowed type of mitigation (CTED, 2003).

3.5.2 Wetland and Buffer Mitigation Success

Most wetland mitigation projects in Washington have not been successful for various reasons and have resulted in lost acreage, wetland types, and wetland functions (Castelle et al., 1992b; Ecology, 2001b; Mockler et al., 1998). An initial study by Ecology (Castelle et al., 1992b) reported that 50 percent or more of the mitigation projects studied did not meet permit requirements.

Twenty four mitigation sites in Washington were analyzed by Ecology (2001b) and found that although mitigation success has improved in the last 10 years, there is still much room for improvement. The Ecology study had the following major findings:

- 29 percent of the projects were achieving all of their specified measures;
- 54 percent of the projects were found to be minimally successful or not successful;
- Wetland enhancement as a type of mitigation performed poorly, compared to creation (50 percent of enhancement sites provided minimal or no contribution to overall wetland functions; 75 percent of sites provided minimal or no contribution to general habitat function); and
- 60 percent of created wetlands were moderately or fully successful and provided significant contribution to water quality and quantity functions.

3.5.3 Mitigation Ratios

Generally, wetland mitigation is implemented over a larger area than the wetland area adversely affected by a proposed project. Several authors and agencies have recommended various replacement ratios (Castelle et al., 1992b; CTED, 2003). Studies of the success of wetland mitigation projects suggest that replacement ratios based on mitigation success could be between 1:1.25 and 3:1 to replace lost wetland function and value. Mitigation ratios for wetlands in most local jurisdictions in western Washington currently range between 1:1 and 4:1. However, more information is needed to understand whether lost wetland functions and acreage can be entirely compensated.

The State of Washington Department of Community, Trade and Economic Development (CTED) *Critical Areas Assistance Handbook* (2003) recommends the following wetland mitigation ratios by classification of wetland:

- Category I wetlands - 6:1
- Category II wetlands - 3:1

- Category III wetlands - 2:1
- Category IV wetlands - 1.5:1

Larger replacement ratios are used to offset temporal losses of habitat and to ensure no net loss of wetlands. However, wetland mitigation ratios greater than 3:1 are based in part upon policy decisions to provide a disincentive to developers for impact of wetlands.

3.6 Wetlands and Wetland Buffers in the City of Gig Harbor

The *City of Gig Harbor Comprehensive Plan* (City of Gig Harbor, 1994) includes a map showing wetland areas in the City and UGA, based on a *City of Gig Harbor Wetlands Inventory and Report* completed in May 1992 (IES Associates, 1992). The May 1992 report included wetlands data provided by Pierce County GIS mapping and information gathered during field visits. The May 1992 Inventory was not available to Adolfson during preparation of this paper.

Wetlands in the City include tidal and non-tidal wetlands. Based upon the GIS information and other existing resources, it appears that scattered non-tidal wetlands within the City boundaries are mostly associated with Donkey and Crescent Creeks and their tributaries. Within the UGA, several wetlands occur on the plateau west of the City between Gig Harbor itself and Wollochet Bay. Non-tidal wetlands found in the City are characterized in the *City of Gig Harbor Park, Recreation, and Open Space Plan* (City of Gig Harbor, 2001c) and tidal wetlands, including salt and freshwater habitats, are described in the *City of Gig Harbor Draft Shoreline Characterization* (Adolfson, 2003).

4.0 STATE OF THE SCIENCE FOR CRITICAL FISH AND WILDLIFE HABITAT AREAS

4.1 Wildlife habitat types

Johnson and O'Neil (2001) provides the most up-to-date description of wildlife habitats in western Washington. The WDFW and the Northwest Habitat Institute developed this habitat typing methodology with input from a panel of regional wildlife experts and with information collected from more than 12,000 pertinent publications. Using this methodology, habitats can be assessed at three levels of detail: wildlife habitat types, structural conditions, and habitat elements. The term "wildlife habitat type" as referred to in Johnson and O'Neil (2001) generally describes vegetation cover types or land use/land cover types. Geographic distribution and physical setting (including climate, elevation, soils, hydrology, geology, and topography) and human activities (such as agriculture and urban development) influence vegetation cover and land use patterns. Wildlife species abundance and distribution are directly related to wildlife habitat types.

The WDFW has published management recommendations for Washington's priority habitats and species (Rodrick and Milner, eds., 1991). Specific documents addressing birds, reptiles and amphibians, invertebrates, riparian areas, and Oregon white oak woodlands have also been

published by WDFW since 1991. These documents summarize the most up-to-date life history information for certain priority species and current research on priority habitats.

4.2 Wildlife habitat types and species commonly present in the City Gig Harbor

The City of Gig Harbor contains several habitat types due to the presence of marine, estuarine, freshwater, and terrestrial zones. These habitats are described in detail in the *City's Park, Recreation, and Open Space Plan* (City of Gig Harbor, 2001c).

The City provides habitat for many common wildlife species found in the Pacific Northwest. The *City of Gig Harbor Draft Shoreline Characterization* (Adolfson, 2003) and the *City's Park, Recreation, and Open Space Plan* (City of Gig Harbor, 2001c) contain discussions of species documented in the City.

Urban areas within Gig Harbor tend to support more "generalist" species and are more prone to invasion by non-native, invasive plant and animal species due to the high level of disturbance to soil and vegetation in agricultural and urban habitats (Ferguson et al., 2001). Generalist species can use a variety of vegetation cover types for breeding and foraging and include both native and non-native species tolerant of human disturbance. In contrast, many "specialist" species require specific habitat characteristics that are either limited or no longer present in developed landscapes. While Gig Harbor's urban character limits habitat for a number of specialist species, the City does provide habitat for several "special status" species. The potential effects of urban development on these "special status" species in Gig Harbor and management considerations for these species are discussed below.

4.3 Special Status Species

Special status species include species designated by federal government agencies (USFWS and NMFS) as endangered, threatened, proposed, and candidate, and species designated by WDFW as endangered or threatened. Like all wildlife species, each of the special status wildlife species identified in the City of Gig Harbor requires adequate forage, water, structure, and space for breeding/nesting, roosting, and cover. Their ability to survive in the remaining fragmented habitat areas in Gig Harbor depends on the presence of and their specific requirements for forage, water, and structure.

Correspondence received from the USFWS noted the presence of five bald eagle nesting territories in the vicinity of the City of Gig Harbor and that wintering bald eagles may also occur along the City's shoreline (USFWS, 2003). Other listed species that may occur in the vicinity include bull trout and marbled murrelet. No proposed or candidate species were identified by the USFWS and no species of concern have been documented within a one-mile radius of the City.

The regular nesting and roosting sites of special status species are considered priority habitat by the WDFW, and the agency has published recommendations for managing breeding and foraging habitats for these species (Rodrick and Milner, 1991). A bald eagle protection ordinance is

outlined in WAC 232-12-292 and Watson and Rodrick (2002) provides management recommendations. Bald eagle nesting sites have been identified on priority habitats and species (PHS) maps (WDFW, 2003). Great blue heron and osprey, both state monitor species, are indicated as nesting and feeding in the City. Purple martin (state candidate) also have documented nesting occurrence in the City (WDFW, 2003).

4.4 Habitat Linkages, Isolation, and Fragmentation

Wildlife habitat linkages are typically linear strips of habitat that connect larger habitats, such as lowland forest or riparian areas. These bands of habitat provide enough food, structure, and water for some wildlife species to live in the linkage area, while others use these areas to move from one habitat area to another. Linkages that connect larger tracts of more diverse habitat are especially important in urban areas where habitats are fragmented and isolated by development and roads (Adams, 1994). Habitat linkages in urbanizing areas generally consist of riparian areas and forested steep slopes that provide habitat for species moving between foraging areas, breeding areas, and seasonal ranges, and which can provide habitat for the dispersal of young animals (Knutson and Naef, 1997). The potential and existing habitat linkages also encompass public lands, such as parks, open space, and trail corridors. Major roads and urban development, however, interrupt even the most substantial (widest) habitat linkages in Gig Harbor. Roads can be partial or complete barriers to terrestrial wildlife movement, especially to slow moving species such as turtles and salamanders (Ferguson et al., 2001).

Primary habitat linkages in Gig Harbor include riparian corridors along Donkey Creek and its tributaries and along Crescent Creek. The steep forested slopes along the Narrows and Colvos Passage provide habitat and in some places connect with inland forest patches. Additional linkage areas connecting smaller habitat tracts include the scattered forested areas and wetlands throughout the UGA.

4.5 Wildlife Habitat Protection and Restoration Strategies

Protecting the highest quality habitats in Gig Harbor may be an effective strategy for protecting wildlife habitat. In addition, protection of the remaining patches of lowland conifer forest in the City would preserve some of the remaining upland habitat and existing habitat linkages. Protection efforts can be focused on protecting intact, native forest habitats because these habitats are not easily replaced.

Changes to forest structure drive the composition of wildlife communities that live in western Washington habitats (Brown, ed. 1985). In upland and riparian habitats, the goal of enhancement could be to improve forest structure. To achieve long-term habitat improvement or enhancement this means planting native trees, providing regular monitoring and maintenance, followed by planting shade tolerant ground cover to complete the forest vegetation community. Measures that provide almost immediate habitat improvement include installation of upright snags, downed logs, brush piles, and other structural habitat elements.

5.0 DATA GAPS

The lack of a recent field inventory of streams, wetlands, and critical fish and wildlife conservation areas is a critical data gap in the preparation of this study. GIS data containing wetlands and streams was provided by the City for this study, but updated information including ground-truthing of mapped wetlands, wetland functions and values, and buffer quality is needed. An inventory of remaining open space and wildlife habitat in the City is needed and could be used to protect the larger patches and linkages of remaining forest, riparian corridors, wetlands, and open water habitats.

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Attachment 3

CRITICAL AREA PROTECTION IN THE COMPREHENSIVE PLAN AND GIG HARBOR MUNICIPAL CODE

COMPREHENSIVE PLAN POLICIES

Land Use Element

2.2.3. Generalized Land Use Categories

Generalized land use categories are identified to serve as a basis for establishing or accommodating the more detailed zoning code designation. The Comprehensive Plan defines eight generalized land use categories:

Preservation Areas

Preservation areas are defined as natural features or systems which possess physical limitations or environmental constraints to development or construction and which require review under the City's wetland ordinance or Critical Areas Ordinance. Preservation areas are suitable for retention or designation as open space or park facilities either as part of a development approval, easement or outright purchase by the City. Preservation areas are considered as overlays to the other generalized land use categories.

GOAL 2.4: PROTECT AND MAINTAIN GROUNDWATER QUALITY AND QUANTITY USED FOR PUBLIC WATER SUPPLIES

Provide an adequate supply of potable water to the city residents and allocate sufficient resources to assure continued supply of groundwater in the future. Require new developments within the urban area to connect to city water as it becomes available for the area. Minimize the impact of on-site septic systems by requiring new development within the urban area to be served by city sewer.

2.4.1. Aquifer Recharge Area and Site Suitability

- Avoid siting industry or uses which pose a great potential for groundwater contamination in those areas which are considered as critical aquifer recharge areas.
- Employ innovative urban design through flexible performance standards to permit increased structure height with decreased impervious coverage to maintain and enhance groundwater recharge.

2.4.2. Adequate Wastewater Treatment and Potable Water Supplies

- Provide for the expansion of the City's wastewater treatment plant to accommodate anticipated twenty-year growth within the urban growth area to minimize or avoid the potential impact to groundwater supplies from on-site septic systems.
- Discourage the continued use of sub-surface sewage disposal (on-site septic systems) within the urban growth area and encourage new developments to connect to the City sewer system.
- Coordinate with other agencies and water purveyors in developing a plan for the consolidation of small water systems within the urban growth area into the municipal water system.

GOAL 2.5: PROTECT AND ENHANCE SURFACE WATER QUALITY AND MANAGE FLOWS TO PRESERVE ENVIRONMENTAL RESOURCES

2.5.1. Adequate Provisions for Storm and Surface Water Management

- Maintain and implement the City's Stormwater Comprehensive Plan to ensure consistency with State and federal clean water guidelines, to preserve and enhance existing surface water resources, to eliminate localized flooding, and to protect the health of Puget Sound.

2.5.2. Support Low Impact Development methods to manage stormwater runoff on-site.

- Establish a review process and toolkit of Low Impact Development (LID) techniques for use in public and private development to reduce or eliminate conveyance of stormwater runoff from development sites. Allow and encourage alternative site and public facility design and surface water management approaches that implement the intent of Low Impact Development.

GOAL 2.6: OPEN SPACE/PRESERVATION AREAS

Define and designate natural features which have inherent development constraints or unique environmental characteristics as areas suitable for open space or preservation areas and provide special incentives or programs to preserve these areas in their natural state.

2.6.1. Critical Areas

- Designate the following critical areas as open space or preservation areas:
 - Slopes in excess of twenty-five (25) percent.
 - Sidewalls, ravines and bluffs.
 - Wetlands and wetland buffers.
- Restrict or limit development or construction within open space/preservation areas but provide a wide variety of special incentives and performance standards to allow increased usage or density on suitable property which may contain these limitations.
- Encourage landowners who have land containing critical areas to consider utilizing the resources of available land preservation trusts as a means of preserving these areas as open space.
- Consider the adoption of "existing use zoning" districts as an overlay for the protection and maintenance of environmentally unique or special areas within the urban growth area. Areas for consideration of this special type of district are as follows:

The Crescent Valley drainage from Vernhardson Street (96th Street NW) north to the UGA boundary.

2.6.2. Incentives and Performance

- Provide bonus densities to property owners that them to include the preservation area as part of the density-bonus calculation.
- Provide a variety of site development options which preserve open space but which allow the property owner maximum flexibility in site design and construction.

2.6.3. Acquisition of Quality Natural Areas

- Consider the purchase of natural areas which are of high quality and which the public has expressed a clear interest in the protection and preservation of these areas.

Environmental Element

4.1.1. Tributary drainage

Protect perennial streams, ponds, springs, marshes, swamps, wet spots, bogs and other surface tributary collection areas from land use developments or alterations which would tend to alter natural drainage capabilities, contaminate surface water run-off or spoil the natural setting.

4.1.2. Stream and drainage corridors

Enforce buffer zones along the banks of perennial streams, creeks and other tributary drainage systems to allow for the free flow of storm run-off and to protect run-off water quality.

4.1.3. Floodplains

Protect alluvial soils, tidal pools, retention ponds and other floodplains or flooded areas from land use developments which would alter the pattern or capacity of the floodway, or which would interfere with the natural drainage process.

4.1.4. Dams and beaches

Enforce control zones and exacting performance standards governing land use developments around retention pond dams, and along the tidal beaches to protect against possible damage due to dam breaches, severe storms and other natural hazards or failures.

4.1.5. Impermeable soils

Protect soils with extremely poor permeability from land use developments which could contaminate surface water run-off, contaminate ground water supplies, erode or silt natural drainage channels, overflow natural drainage systems and otherwise increase natural hazards.

4.1.6. Septic System use

Enforce exacting performance governing land use developments on soils which have fair to poor permeability, particularly the possible use of septic sewage drainage fields or similar leaching systems. In areas which are prone to septic field failure, work with the Tacoma-Pierce County Health district to encourage the use of City sewer, as available and where appropriate.

4.1.7. High water table

Protect soils with high water tables from land use developments which create high surface water run-off with possible oil, grease, fertilizer or other contaminants which could be absorbed into the ground water system.

4.1.8. Noncompressive soils

Protect soils with very poor compressive strengths, like muck, peat bogs and some clay and silt deposits, from land use developments or improvements which will not be adequately supported by the soil's materials.

4.1.9. Bedrock escarpments

Enforce exacting performance standards governing land use developments on lands containing shallow depths to bedrock or bedrock escarpments, particularly where combined with slopes which are susceptible to landslide hazards.

4.1.10. Landslide

Protect soils in steep slopes which are composed of poor compressive materials, or have shallow depths to bedrock, or have impermeable subsurface deposits or which contain other characteristic combinations which are susceptible to landslide or land slumps.

4.1.11. Erosion

Enforce exacting performance standards governing possible land use development on soils which have moderate to steep slopes which are composed of soils, ground covers, surface drainage features or other characteristics which are susceptible to high erosion risks.

4.2.5. Open space wildlife habitat

Enforce exacting standards governing possible land use development of existing, natural open space areas which contain prime wildlife habitat characteristics. Promote use of clustered development patterns, common area conservancies and other innovative concepts which conserve or allow, the possible coexistence of natural, open space areas within or adjacent to the developing urban area. Incorporate or implement the standards adopted in the Washington State Administrative Guidelines for the identification and protection of critical wildlife habitat, as appropriate.

4.2.6. Wetland wildlife habitat

Protect lands, soils or other wetland areas which have prime wildlife habitat characteristics. Promote use of site retention ponds, natural drainage methods and other site improvements which conserve or increase wetland habitats. Incorporate or implement the standards adopted in the Washington State Administrative Guidelines for the identification and protection of critical wildlife habitat, as appropriate.

4.2.7. Woodland wildlife habitat

Protect lands, soils or other wooded areas which have prime woodland habitat characteristics. Promote use of buffer zones, common areas, trails and paths, and other innovative concepts which conserve or increase woodland habitats. Incorporate or implement the standards adopted in the Washington State Administrative Guidelines for the identification and protection of critical wildlife habitat, as appropriate.

4.3.1. Best to least allocation policies

As much as possible, allocate high density urban development onto lands which are optimally suitable and capable of supporting urban uses, and/or which pose fewest environmental risks. To the extent necessary, allocate urban uses away from lands or soils which have severe environmental hazards.

4.3.2. Performance criteria

As much as practical, incorporate environmental concerns into performance standards rather than outright restrictions. Use review processes which establish minimum performance criteria which land-owners and developers must satisfy in order to obtain project approvals. As much as possible, allow for innovation and more detailed investigations, provided the end result will not risk environmental hazards or otherwise create public problems or nuisances.

4.3.3. Best Available Science

Ensure that land use and development decisions are consistent with Best Available Science practices to avoid contamination or degradation of wetland, stream, shoreline, and other aquatic habitats. Special attention should be placed on anadromous fisheries.

4.4.3. Groundwater

Prevent groundwater contamination risks due to failed septic systems. To the extent practical, cooperate with County agencies to create and implement plans which will provide suitable solutions for subdivisions with failed septic systems, and which will prevent future developments in high risk areas. Adopt specific performance standards for the development of land in areas identified as critical aquifer recharge areas.

4.4.4. Stormwater - development standards

Prevent surface water contamination and erosion of natural surface drainage channels due to ill-conceived or poorly designed urban development. Promote the use of storm water retention ponds and holding areas, natural drainage and percolation systems, permeable surface improvements, clustered developments and other concepts which will reduce stormwater volumes and velocities.

4.4.5. Stormwater - operating standards

Coordinate with the appropriate local and state agencies in promoting public education and awareness on the proper use of household fertilizers and pesticides. Develop and implement performance standards regarding the dumping of wastes, trapping of greases and other byproducts which can be carried into the natural drainage system.

Shoreline Management Element

9.1.1. Waterway

Define and regulate the design and operation of water-oriented activities including aquaculture and fish farming, and over-water-structures or water-borne improvements including piers, floats, barges and the like to protect the navigational capabilities of the harbor. Define and regulate activities which may occur within or affect the natural tides, currents, flows and even floodways to protect the functional integrity of the harbor.

9.1.2. Habitats

Preserve natural habitat areas, including beaches, streams and estuaries, from disruption. Protect fragile ecosystems which provide the waterfront unique value, especially fish spawning beds in the natural tributaries of Crescent Valley and Donkey Creeks.

9.1.3. Water and shoreline quality

Define and regulate activities which can possibly contaminate or pollute the harbor and shorelines including the use or storage of chemicals, pesticides, fertilizers, fuels and lubricants, animal and human wastes, erosion and other potentially polluting practices or conditions.

Coordinate with the Puget Sound Water Quality Authority, Pierce County and the Tacoma-Pierce County Health Department to secure adequate funding from available

sources to develop and implement a water quality baseline study as a prelude to an area-wide water-quality basin plan.

9.1.4. Natural setting

Preserve the natural shoreline and harbor setting to the maximum extent feasible and practical. Control dredging, excavations, land fill, construction of bulkheads, piers, docks, marinas or other improvements which will restrict the natural functions or visual character of the harbor or shoreline. Utilize natural materials and designs where improvements are considered to blend new constructions with the natural setting and with older structures.

GIG HARBOR MUNICIPAL CODE

Chapter 14.20 - STORMWATER MANAGEMENT

Chapter 15.04 - FLOOD HAZARD CONSTRUCTION STANDARDS

Chapter 17.94 - LAND CLEARING

Chapter 18.04 - ENVIRONMENTAL REVIEW (SEPA)

Chapter 18.94 - CRITICAL AREAS

MEMORANDUM

DATE: November 28, 2005

TO: John Vodopich, City of Gig Harbor
Planning and Community Development Department

FROM: Teresa Vanderburg, Adolfson Associates, Inc.
Owen Dennison, AHBL

RE: Revisions to Proposed Chapter 18.08 – Critical Areas

Adolfson Associates, Inc. (Adolfson) and AHBL Engineers are pleased to present this memorandum summarizing the progress made to date in updating the City's critical areas ordinance to meet the requirements of the Growth Management Act (GMA). This memo outlines the results of the wetland and stream inventory, and revisions made to the proposed Chapter 18.08 – Critical Areas since the December 13, 2004 public hearing.

Wetland and Stream Inventory

At the request of the City Council, a citywide wetland and stream inventory was undertaken in February and March of 2005. A draft inventory report and draft maps were presented to the City on March 17, 2005 for internal review. The Community Development Committee was presented the draft report in a July 2005 meeting following planning staff review. Additional fieldwork in the harbor area was undertaken and information incorporated into the inventory report and maps in August. After communications with Ms. Gretchen Lux at Washington State Department of Ecology regarding classification of mudflats, the inventory was finalized on October 17, 2005.

The wetland and stream inventory identified 91 wetlands in the City and its UGA, and 6 major streams. Of the wetlands identified, 36 were field verified by Adolfson and 7 of these were rated using the Ecology 2004 wetland rating forms. One wetland was rated to be a likely Category I wetland – Wetland No. 3 (north of Rosedale Street and west of Gig Harbor High School). Mr. Doug Sorenson's wetland at the mouth of Crescent Creek (Wetland No. 81) was also visited; this wetland was observed to be an estuarine wetland that rated as a Category II. Most of the wetlands rated (3 out of 7) were considered Category III wetlands. No Type 1 (Shorelines of the State) streams were identified in the City of Gig Harbor. Streams were rated to be generally Type 2 streams with salmonids present. Please note that the inventory provides information for planning purposes only. The wetlands and streams identified during the inventory were assessed at a reconnaissance level from public roadways and other public access points. Site-specific investigations are necessary to determine the actual extent, presence and rating of wetlands and streams on a specific property.

February 2005 Ecology Review Letter

Ms. Gretchen Lux of Ecology provided a second review letter to the City dated February 1, 2005 to comment on the proposed ordinance following the public hearing in December 2004. This second letter from Ecology focused on wetland buffers, buffer reduction policy, buffer averaging, buffer increases, and exemptions for areas in the shoreline jurisdiction.

Community Development Committee

At the request of the Community Development Committee and following the inventory review, several provisions in the proposed Chapter 18.08 were revised in minor ways. These include the following:

- Revised wetland buffer widths to 150 feet for Category I wetlands scoring 20 points or less on the habitat rating forms. Wetland buffers for Category I wetlands scoring over 20 points on the habitat rating form and all other Category I wetlands is 200 feet.
- Special provision added for cases where wetland buffers extend beyond developed roadways.
- Special modification added for cases where existing legal bulkheads transect a wetland buffer.

Planning Staff Comment

A City planner reviewing the proposed Chapter 18.08 noted that one section of the code is in conflict with "best available science". This section of the code is currently found in Exemptions (Section 18.08.310(M)) and states that any project subject to the Shoreline Management Act is exempt from the critical areas ordinance. This section was part of the original Chapter on Wetland and was intended to be deleted but was inadvertently left in during editing. Ecology had also noted that this section of the code relied upon the Shoreline Master Program, which may not be adequate to protect critical areas. We recommend deleting this provision.

Response Matrix for Public Comments

A response matrix was then prepared to address public comments from the December 13, 2004 hearing and address Ecology comments. This response matrix is attached for your review and consideration.

CITY OF GIG HARBOR
 CRITICAL AREAS ORDINANCE
 RESPONSE TO COMMENTS FROM PUBLIC HEARING ON DECEMBER 13, 2004 & ECOLOGY LETTER

Ms. Gretchen Lux – Washington Dept. of Ecology (Ecology) from February 1, 2005

	Code Section	Comments	Response
1.	18.08.160 (Wetland buffers)	Wetland buffers are lower than Ecology recommendations and are not considered adequate to protect all wetland functions. Ecology recommends use of Buffer Alternative 3 or 3A in Volume 2 of Ecology's wetland management guidance.	Buffer widths proposed are based on best available science and policy recommended by the Planning Commission. The proposed buffer widths are tailored to specifically protect the functions and values of wetlands in Gig Harbor. The proposed buffer range (200 to 25 feet) falls within the range of effective buffers outlined in the scientific record, albeit at the lower end of the range. Under Buffer Alternative 3, wetland buffers in urban areas (high land use intensity) range from 100 to 300 feet for Category I wetlands, 100 to 300 feet for Category II wetlands, 80 to 150 feet for Category III wetlands, and 50 feet for Category IV wetlands.
2.	18.08.170 (Wetland buffer reductions)	Ecology does not recommend that wetland buffers be reduced if in a degraded condition.	Alternatives 3 and 3A were considered for use in Gig Harbor; however, a more simplistic buffer system was desired to provide predictability and consistency during development review. The intent of the Planning Commission in requesting a buffer reduction policy is to create an incentive for developers to enhance existing degraded wetland buffers. Buffer reductions can only occur where an overall improvement can be demonstrated.
3.	18.08.170 (A) 2 (Wetland buffer reduction and averaging)	"Overall improvement in drainage improvements and/or stormwater detention" should be removed from list of decisional criteria. Not a usual function of a wetland buffer.	The criterion in question relates to the wetland buffers ability to provide for surface water retention and detention, including floodwaters. Recommend that this criterion be removed or reworded to clarify.
		Ecology recommends that averaging allow no more than a 25 percent reduction in a standard buffer width at any given place.	For buffer reductions, a 30 percent reduction was originally recommended to the Planning Commission. However, the Planning Commission recommended a 45 percent reduction be allowed. For buffer averaging, a 50 percent maximum was used for any point, given that the total area contained in the buffer is no less than that with the standard buffer.

<p>4. 18:08.310 (M) (Exemptions)</p>	<p>This provision, which exempts wetlands in the Shoreline Jurisdiction, would not provide adequate protection, unless the shoreline regulations are consistent with the scientific literature on wetland protection.</p>	<p>Agree with comment. This exemption should be deleted.</p>
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Ms. Marilyn Owl – Citizen, Gig Harbor, WA

Code Section	Comments	Response
<p>1. 18.08.160</p>	<p>Wetland buffers recommended by the Planning Commission are narrower than those recommended by Washington Department of Ecology. Buffers do not take into account adjacent land use intensity. Request the Council to amend Planning Commission recommendations and adopt Ecology's Alternative 3 buffers.</p>	<p>See Response to Comment #1, Ecology.</p>

Friends of Pierce County – PO Box 2084, Gig Harbor, WA

Code Section	Comments	Response
<p>1. N/A</p>	<p>Council should consider use of Low Impact Development alternatives to offset adverse impacts from development and increased impervious surfaces. Recommends that Low Impact Development standards be adopted in the City's Comprehensive Plan.</p>	<p>Comment noted. Adopting codes and standards to allow the use of low impact development (LID) best management practices may reduce development impacts to groundwater and surface water bodies. However, LID is an approach to land development and stormwater management rather than critical areas regulations.</p>
<p>2. N/A</p>	<p>Concern expressed over lack of citywide inventory for wetlands. Recommends that the City provide updated wetland inventory maps with classifications to match state guidelines.</p>	<p>City Council has directed Adolfsen Associates, an environmental consulting firm, to complete a citywide inventory of wetlands and stream. The inventory was completed in draft form in March 2005, and finalized in October 2005. Maps are now available to the public. Several wetlands were classified during this inventory.</p>
<p>3. 18.08.160</p>	<p>Concern over wetland buffer widths since they do not follow the state guidelines. Recommends that the Council adopt Ecology's Alternative 3 buffer method, which provides buffers from 50 to 300 feet in width in high intensity development areas.</p>	<p>See Response to Comment #1, Ecology.</p>

Mr. John Chadwell, The Olympic Property Group – 19245 – 10th Avenue NE, Poulsbo, WA

Code Section	Comments	Response
1. 18.08.170(A)(2)	Provision appears to allow buffer width averaging for Category I, II and IV wetlands and not for Category III wetlands. Recommends that the code allow buffer width averaging for Category III wetlands (with a standard buffer of 50 feet).	Standard buffers of Category I and II wetlands may be averaged under this provision of the code. However, standard buffers of Category III and IV wetlands may not be averaged since these buffers are 50 feet or less. The scientific information in the record indicates that buffers less than 50 feet do not provide adequate protection for most wetland functions. According to Ecology in its BAS documents, most of the wetlands with buffers narrower than 50 feet suffer from direct human encroachment. Recommend wording should be clarified. Buffer averaging could be allowed to reduce the buffer at any given point by a lesser degree (10 percent) on Category III wetlands. Recommend no buffer averaging on Category IV wetlands due to small buffer.

Mr. Christopher Wright, Raedke Associates for Olympic Property Group – 5711 NE 63rd Street, Seattle, WA

Code Section	Comments	Response
1. 18.08.160	Wetland buffers recommended in the proposed draft Gig Harbor code are appropriate and consistent with those recommended in the scientific literature.	Comment noted.
2. 18.08.170(A)(2)	Buffer width averaging provision allows for a maximum 50 percent reduction at any one point of Category I and II wetland buffers, but not Category III and IV. Recommends standard minimum buffer width of 25 feet to be allowed with either wetland buffer averaging or wetland buffer reduction. States that wetland buffers as narrow as 25 feet can protect wetland functions.	According to Ecology in its BAS documents, most of the wetlands with buffers narrower than 50 feet suffer from direct human encroachment. The Ecology Buffer Alternative 3 limits buffer reduction to 25% and the narrowest buffer recommended by the state is 75 feet. Recommend wording be clarified. Buffer averaging and reduction could be allowed to reduce the buffer at any given point by a lesser degree (10 percent) on Category III wetlands. Recommend no buffer averaging or reduction on Category IV wetlands due to small buffer.

Mr. Dennis Reynolds, Davis, Wright, Tremaine-1501 Fourth Avenue, Seattle, WA

Code Section	Comments	Response
1. N/A	When considering what may be best available science, he urges that undue weight not be given to the state agencies. Information from Ecology and Washington Department of Fish and Wildlife is provided as guidance, but has not been enacted into law.	State guidance was used as part of the scientific record. However, local conditions and the unique local setting were also considered and evaluated in development of the ordinance.
2. 18.08.010 (Purpose)	One purpose of the ordinance as stated is “enhancement of critical areas”; only protection of the functions and values of critical areas is required under GMA.	The City recognizes that some critical areas are degraded and that enhancement of these would serve to protect the functions and values of critical areas. The proposed ordinance does not preclude development in and near critical areas; rather, it seeks to protect critical areas and allow development and mitigation of impacts.
3. 18.08.020 (Goals)	Notes that neither enhancement nor restoration is a requirement for critical areas ordinances updated under the GMA.	Refer to Response #2 above.
4. 18.08.020 (Goals)	Recommends that a stand-alone section be developed in Title 18.08 to establish a non-regulatory program to promote enhancement and restoration of critical areas: City of Bainbridge Island has such a program funded by a bond levy.	Would need to be investigated further at Council direction.
5. 18.08.030 (Best Available Science)	Delete language in this section that refers to critical areas reports and decisions to alter critical areas shall rely on the best available science. Object to the word “rely” versus “consider”.	Recommend a replacement of the word “rely” with “consider” rather than deletion of the language entirely. Use of scientific findings is helpful when evaluating possible impacts to critical areas when alterations are proposed by development.
6. 18.08.040 (Definitions)	The consideration of “best available science” does not legally outweigh the City’s responsibility to meet statutory and constitutional requirements. Comments the City for the definition of “significant impact”.	The City recognizes its need to meet statutory and constitutional requirements and avoid a property taking. Buffers and other setbacks in the proposed ordinance lie within the range of science, but at the lower end of the range. Comment noted.

7. 18.08.110 (Wetland Ratings)	Notes major changes to the method for rating wetlands. Request that the Council undertake a citywide wetland inventory to establish the types of wetlands and stream in the jurisdiction.	Refer to Response #2, Friends of Pierce County. A select number of wetlands in the inventory were rated using the new Ecology rating system. The old wetland rating system was inherently confusing and included streams as well. While complex, the state's new wetland rating system is an improvement over the old system in Gig Harbor.
8. 18.08.120 (Regulated Activities)	Title 18.08 should regulated new development only and not minor expansions of existing structures or uses within critical areas.	GMC 18.08.120 outlines regulated activities within wetlands, which are identical to those in the current ordinance. Maintenance of existing structures is allowed as outlined in 18.08.300. Exemptions from the development standards are outlined in 18.08.310. Minor expansions of existing structures or uses that do not meet the definition of exemptions must be reviewed under the proposed standards and existing non-conforming uses section of the code, Chapter 17.68.
9. 18.08.310 (Exemptions)	Comments on Ecology's recommendation that any exemption for wetlands of small size is not supported by science. Retain the exemption for impacts to hydrologically isolated wetlands less than 2,500 square feet in size as a practical approach.	Retaining an exemption for small wetlands of low function is a practical approach. Recommend limiting this exemption to Category IV wetlands of 1,000 square feet or less.
10. 18.08.160 (Wetland buffers)	Urges against adopting large wetland buffers based upon Ecology guidance and recommends against using Buffer Alternative 3. Large buffers are not warranted on most urban wetlands, because major function is stormwater control, which can be accomplished with stormwater systems.	Buffer Alternative 3 has not been proposed per se, rather standard buffers are proposed based upon function and value, a review of the scientific literature, and the type of wetlands found in Gig Harbor. The buffer system is similar to Ecology's Alternative 3 but less complicated.
11. 18.08.170.A(2) (d) (Buffer Averaging)	Comment about why buffer averaging was not allowed for Category III and IV wetlands.	See Response #1 to Mr. Chadwell.
12. 18.08.280 (Critical Fish and Wildlife Areas)	Urges City Council to limit the species in this section of the proposed code and protect only required species according to CTED.	This section of the code has not been substantially changed from the existing language. The existing code covers Critical Fish and Wildlife Habitats and was deemed adequate.



"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PUBLIC HEARING AND FIRST READING OF ORDINANCE
- HALL STREET VACATION REQUEST
DATE: NOVEMBER 28, 2005

INTRODUCTION/BACKGROUND

On October 10, 2005, City Council approved Resolution 654 setting November 28, 2005 as the date to hear public testimony regarding the requested street vacation initiated by Ms. Janell Israel. The City received a petition on June 30, 2005, to vacate a portion of Hall Street abutting the Israel/Hall property as shown on exhibits A and B on the attached ordinance in accordance with GHMC 12.14.002C. The petition was amended on November 9, 2005 to clarify ownership of the residential property, as the Janell Adrienne Israel Living Trust and the Colin Kelly Harris Living Trust.

Specifically, the request is for the vacation of the portion of Hall Street right-of-way currently held by the City, and abutting the northern property frontage of Parcels A and B of Short Plat No. 2260000371. Prior research on this right-of-way has determined that this portion of Hall Street was platted in Pierce County in 1888 and was not opened or improved by 1905, therefore it automatically was vacated by operation of law in 1896. The City's ability to open this portion of Hall Street is barred by lapse of time and the City has no interest in the street, except for a 7.5 foot easement to maintain the City's utilities located along the north line of the area to be vacated. In order to ensure that this portion of Hall Street is placed on tax rolls and the ownership is formally recorded, the property owner has requested that the City vacate the street under GHMC 12.14.

The right-of-way proposed for vacation along Hall Street is surplus to the City's needs, and the City does not have any plans for improving the right-of-way proposed for vacation. The vacation request will not eliminate public access to any property.

FISCAL CONSIDERATIONS

The processing fee has been paid in accordance with GHMC 12.14.004.

RECOMMENDATIONS

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



PROPOSED
STREET
VACATION
LOCATION

ISRAEL STREET VACATION ON HALL ST.
VICINITY MAP

COPY

BEFORE THE GIG HARBOR CITY COUNCIL

IN RE **AMENDED** PETITION TO VACATE
UNOPENED SEGMENT OF HALL STREET

AMENDMENT TO PETITION TO VACATE UNOPENED SEGMENT OF HALL STREET

A Petition to Vacate the segment of Hall Street adjoining the residential property located at 3669 Artena Lane, Gig Harbor, Washington 98335, was submitted to the City of Gig Harbor on June 29, 2005. A public hearing on that vacation has been scheduled for November 28, 2005. The Petition mistakenly states that the property is owned by Janell Israel. In fact, the property is owned by the Janell Adrienne Israel Living Trust and the Colin Kelly Harris Living Trust ("The Trusts"). The sole purpose of this Amendment is to clarify ownership of the residential property. The remainder of the Vacation Petition remains the same as that filed with the City on June 29, 2005, except that provisions of the Petition have been amended to reflect the actual ownership of the property.

JUNE 29, 2005 -- PETITION TO VACATE UNOPENED SEGMENT OF HALL STREET

The Trusts and their Trustees petition the City Council to recognize the vacation of an unopened segment of Hall Street, which abuts residential property owned by The Trusts located at 3669 Artena Lane, Gig Harbor, Washington 98333 (the former address of the property was 9310 Milton, Gig Harbor, WA). This segment of Hall Street was vacated by operation of law under the non-user statute. Laws of Washington, Chapter 19, § 32 (Non-User Statute) 1889-90.

IN RE AMENDED PETITION TO VACATE
UNOPENED SEGMENT OF HALL STREET -- 1

active Israel misc amend petition GH city council 110905

A plat which predates 1907 created the segment of Hall Street which abuts The Trusts' property was created by plat which predates 1907. When the street was created, it was located in unincorporated Pierce County; Gig Harbor was not incorporated until 1946. This street has been vacated by operation of law under the non-user statute codified in § 18.89-90, Laws Of Washington, Chapter 19 § 32, it stated:

Any country road, or part thereof which has heretofore been or may hereafter be authorized which remains unopen for public use for the space of five years after the order is made or authority granted for opening the same, shall be and the same is hereby vacated and the authority for building the same barred by lapse of time.

Smith v. King County, 80 Wash. 273, 276, 141 Pac. 695 (1914) holds that the non-user statute causes unopened streets to be vacated by operation of law and explains that "when vacation occurs by operation of law or otherwise, the land is freed from the easement as completely as though it never existed and that the owner of the soil has an absolute title to the same." *Lewis v. Seattle*, 174 Wash. 219, 225, 24 P.2d 427 (1933) discusses that the non-user statute:

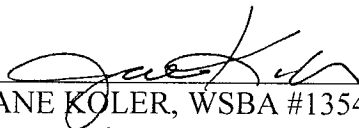
But in this case we are dealing with a statute which says, if streets are not open, they become vacated and the right to open is barred by the lapse of time.

Lewis, 174 Wash. 225.

Because the street was vacated as a matter of right, this vacation petition has simply been submitted to request that the City Council enter an order vacating the property. This will allow records to show that the street has been vacated, and that it is a portion of The Trusts' property. Because the street was vacated as a matter of right, it should not be necessary to obtain the consent of abutting property owners. Further, because the street was vacated pursuant to the Non-User Statute, The Trusts should neither be required to pay appraisal fees nor compensation

for the right-of-way. See *Gig Harbor Municipal Code* 12.14.018(c). It is likely that the segment of Hall Street which abuts The Trusts' property was never open for street purposes, because it is located in a sloping area where it would not be feasible to develop a street. Moreover, it was unnecessary to open Hall Street for municipal street use because the properties in the vicinity of The Trusts' property all have access by other streets. There is no further municipal street purpose available for this land. My clients urge the City Council to adopt a resolution which recognizes that the segment of Hall Street which abuts their property has been vacated by the operation of law.

Dated this 9 day of November, 2005.



JANE KOLER, WSBA #13541
Attorney for Janell Israel, Trustee of the
Janell Adrienne Israel Living Trust and Colin
Harris, Trustee of the Colin Kelly Harris
Living Trust and the Janell Adrienne Israel Living
Trust and the Colin Kelly Harris Living Trust

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
GIG HARBOR, WASHINGTON, VACATING A PORTION
OF HALL STREET, BETWEEN NORTH HARBORVIEW
DRIVE AND VERNHARDSON STREET.**

WHEREAS, the City has the authority to adopt a vacation ordinance to formally remove the cloud on the title of the referenced right-of-way area, but this street vacation ordinance does not affect the rights of anyone, including any rights the public may have acquired in the right-of-way since the street was vacated by operation of law; and

WHEREAS, the portion of Hall Street subject to this vacation request was created in the Plat of the Artena, recorded in the records of Pierce County in 1891; and

WHEREAS, the referenced portion of street right-of-way has never been opened or improved as a public street; and

WHEREAS, the referenced portion of street right-of-way was located in Pierce County during the period of five years prior to 1909, and there is no evidence that it was used as a street during such period; and

WHEREAS, the City Council passed Resolution No. 654 initiating the procedure for the vacation of the referenced street and setting a hearing date; and

WHEREAS, after the required public notice had been given, the City Council conducted a public hearing on the matter on November 28, 2005, and at the conclusion

of such hearing determined that the aforementioned right-of-way vacated by operation of law and lapse of time; Now, Therefore,

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

Section 1. The City Council finds that the unopened portion of the platted Hall Street right-of-way, lying between North Harborview Drive and Vernhardson Street, abutting the northern property frontage of Parcels A and B of Short Plat No. 2260000371, attached hereto as legally described in Exhibit A and incorporated by this reference and as shown as depicted on Exhibit B, has vacated by lapse of time and operation of law under the Laws of 1889-90, Chapter 19 (Relating to County Roads), Section 32, p. 603, as Amended By Laws of 1909, Chapter 90, Section 1, p. 189, repealed in 1936 by the Washington State Aid Highway Act (Laws of 1936, Chapter 187, p. 760). .

Section 2. The City has the authority to adopt a vacation ordinance to formally remove the cloud on the title of the referenced right-of-way area, but this street vacation ordinance does not affect the rights of anyone, including any rights the public may have acquired in the right-of-way since the street was vacated by operation of law.

Section 3. The City Clerk is hereby directed to record a certified copy of this ordinance with the office of the Pierce County Auditor.

Section 4. The City has an easement over, under and through the street as generally depicted on Exhibit B. The City shall retain its existing easement in the street

for the purpose of maintaining, operating, repairing and replacing the sewer utilities in place.

Section 5. This ordinance shall take effect five days after passage and publication as required by law.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this _____ day of _____, 2005.

CITY OF GIG HARBOR

By:

Gretchen Wilbert, Mayor

ATTEST/AUTHENTICATED:

By: _____
Molly M. 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:



ADMINISTRATION

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR
SUBJECT: FIRST READING OF ORDINANCE INCREASING MONTHLY WATER RATES.
DATE: NOVEMBER 28, 2005

INTRODUCTION

This is the first reading of an ordinance increasing monthly water rates. Rates were last increased October 1, 2003 as recommended in a rate study conducted by Gray and Osborne, Inc. This same study also recommended a second 5% rate increase approximately one year after the first increase.

BACKGROUND

The proposed rate increase will ensure that adequate revenues are available to meet operating costs, replace aging infrastructure, construct new facilities, and maintain adequate cash reserves.

FINANCIAL

The proposed rate increase will provide approximately \$35,000 in additional operating revenues for the water utility in 2006.

Currently, the City's average residential water bill for one month is \$20.98. With the proposed increase this rate would increase to \$22.03.

RECOMMENDATION

Staff recommends adoption of this ordinance.

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

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON CHANGING THE MONTHLY WATER SERVICE RATE TO BE PAID TO THE CITY BY OWNERS OF PROPERTY WITHIN THE CITY FOR THE PROVISION OF WATER SERVICES; AMENDING GIG HARBOR CODE SECTIONS 13.04.010, 13.04.020 AND 13.04.060, TO BE EFFECTIVE BEGINNING JANUARY 1, 2006.

WHEREAS, it is necessary to raise water service rates and charges to meet the increasing cost of providing water services;

WHEREAS, the 2003 rate study by Gray & Osborne recommends these rate increases;

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington, **DO ORDAIN AS FOLLOWS:**

Section 1. Section 13.04.010 of the Gig Harbor Municipal Code is hereby amended as follows:

13.04.010 Water Rates.

The monthly water service rates shall be set at the following amounts:

<u>Customer Class/Meter</u>	<u>Customer Base Charge (per meter/month)</u>	<u>Commodity Charge (per ccf)</u>
Residential	\$9.53 \$9.08	\$1.25 \$1.19
Multi-residential		
5/8" & 3/4"	16.74 15.94	1.16 1.10
1"	23.04 21.94	1.16 1.10
1-1/2"	38.66 36.82	1.16 1.10
2"	57.48 54.74	1.16 1.10
3"	107.61 102.49	1.16 1.10
4"	\$164.06 156.25	\$1.16 1.10
Commercial/Schools		
5/8" & 3/4"	\$14.04 13.37	\$1.21 1.15
1"	18.53 17.65	1.21 1.15
1-1/2"	29.67 28.26	1.21 1.15
2"	43.09 41.04	1.21 1.15
3"	78.86 75.10	1.21 1.15
4"	\$119.11 113.44	1.21 1.15

Section 2. Section 13.04.020 of the Gig Harbor Municipal Code is hereby amended as follows:

13.04.020 Nonmetered residential uses.

Until a water meter has been installed to measure water consumed by a residential unit or a multiple-residential building, the water service charge applicable to such unmetered unit shall be \$28.28 ~~\$26.93~~ per month per unit.

Section 3. Section 13.04.060 of the Gig Harbor Municipal Code is hereby amended as follows:

13.04.060 Discontinuance of water service.

Should the owner of any premises desire to discontinue the use of water supplied any premises, he shall give the city notice in writing and pay in full any outstanding water charges on his account at the utility department. The water shall then be shut off. Upon proper application and payment of \$25.00 ~~\$15.00~~ turn-on charge, water service shall be turned on again.

Section 4. This ordinance shall be in full force and take effect January 1, 2006 which shall be at least five (5) days after its publication of an approved summary consisting of the title.

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 ___th day of December, 2005.

APPROVED:

Gretchen A. Wilbert, Mayor

ATTEST:

Molly Towslee, City Clerk

Filed with city clerk:

Passed by city council:

Date published:

Date effective:

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

On December __, 2005, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. ____, the summary of text of which is as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON CHANGING THE MONTHLY WATER SERVICE RATE TO BE PAID TO THE CITY BY OWNERS OF PROPERTY WITHIN THE CITY FOR THE PROVISION OF WATER SERVICES; AMENDING GIG HARBOR CODE SECTIONS 13.04.010 AND 13.04.020, TO BE EFFECTIVE BEGINNING JANUARY 1, 2006.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR:

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

APPROVED by the City Council at their regular meeting of December __, 2005.

BY: _____

MOLLY M. TOWSLEE, CITY CLERK



ADMINISTRATION

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR
SUBJECT: FIRST READING OF ORDINANCE INCREASING MONTHLY SEWER RATES.
DATE: NOVEMBER 28, 2005

INTRODUCTION

This is the first reading of an ordinance increasing monthly sewer service rates. Rates were last increased October 1, 2003 as recommended in a rate study conducted by Gray and Osborne, Inc. This same study also recommended a second rate increase approximately one year after the first increase.

BACKGROUND

The proposed rate increase will ensure that adequate revenues are available to meet operating costs, replace aging infrastructure, construct new facilities, and maintain adequate cash reserves.

FINANCIAL

The proposed rate increase will allow the sewer utility to cover operating expenses (not including debt service payments) in 2006.

Currently, the City's average residential sewer bill for one month is \$29.63. With the proposed increase this rate would increase to \$31.11. This increase will provide an additional \$75,000 in annual revenues.

RECOMMENDATION

Staff recommends adoption of this ordinance.

**CITY OF GIG HARBOR
ORDINANCE NO.**

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON INCREASING THE MONTHLY SEWER SERVICE RATE TO BE PAID TO THE CITY BY OWNERS OF PROPERTY WITHIN THE CITY FOR THE PROVISION OF SEWER SERVICES; AND AMENDING GIG HARBOR CODE SECTIONS 13.32.010, 13.32.015, 13.32.020, AND 13.32.025 TO BE EFFECTIVE BEGINNING JANUARY 1, 2006.

WHEREAS, it is necessary to raise sewer service rates and charges to meet the increasing cost of providing sewage collection and treatment services; and

WHEREAS, the 2003 rate study by Gray & Osborne recommends these rate increases;

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington, **DO ORDAIN AS FOLLOWS:**

Section 1. Section 13.32.010 of the Gig Harbor Municipal Code is hereby amended as follows:

13.32.10 Sewer Rates.

A. The monthly sewer service rate shall be set at the following amounts:

<u>Customer Class</u>	<u>Customer Base Charge (per month)</u>	<u>Commodity Charge (per ccf)</u>
Residential	\$16.98 \$16.17	\$2.08 \$1.98
Multi-Family Residential (per living unit)	13.06 12.44	2.08 1.98
Commercial/School	39.64 37.75	3.68 3.50
Dept. of Corrections	\$5,236.35 \$4,987	\$2.08 \$1.98

* * *

Section 2. Section 13.32.015 of the Gig Harbor Municipal Code is hereby amended as follows:

13.32.015 Sewer Rates – Community Systems. The monthly sewer service rates for community systems shall be set at the following amounts:

Customer Class	Monthly Charge
Shore Crest System	<u>\$5.25</u> \$5.00 plus <u>\$25.86</u> \$24.63 /living unit

Section 3. Section 13.32.020 of the Gig Harbor Municipal Code is hereby amended as follows:

13.32.20 Non-metered uses. Until a water meter has been installed to measure water flow by a residential unit, multi-residential building, or commercial facility, the sewer service charge for each unmetered unit/facility shall be as follows:

<u>Nonmetered Customer Class</u>	<u>Monthly Charge</u>
Residential	<u>\$31.11</u> \$29.63 /unit
Multifamily residential	<u>22.31</u> 21.25 /living unit
Commercial	<u>\$76.39</u> 72.75 /billing unit

Section 4. Section 13.32.025 of the Gig Harbor Municipal Code is hereby amended as follows:

13.32.025 Sewer Rates – Community systems using flow meters.

<u>Customer Class</u>	<u>Customer Base Charge (per month) (per ccf)</u>	<u>Commodity Charge</u>
Residential	<u>\$5.25</u> \$5.00 + <u>\$11.73</u> \$11.17 /unit	<u>\$2.08</u> \$1.98
Multi-Family Residential	<u>\$5.25</u> \$5.00 + <u>\$7.81</u> \$7.44 /unit	<u>\$2.08</u> 1.98
Commercial	<u>\$5.25</u> \$5.00 + <u>\$34.39</u> \$32.75 /unit	<u>\$3.68</u> 3.50

* * *

Section 5. This ordinance shall be in full force and take effect December __, 2005 which shall be at least five (5) days after its publication of an approved summary consisting of the title.

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 ___th day of December, 2005.

APPROVED:

Gretchen A. Wilbert, Mayor

ATTEST:

Molly Towslee
City Clerk

Filed with city clerk:

Passed by city council:

Date published:

Date effective:

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

On December __, 2005, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. ____ the summary of text of which is as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON INCREASING THE MONTHLY SEWER SERVICE RATE TO BE PAID TO THE CITY BY OWNERS OF PROPERTY WITHIN THE CITY FOR THE PROVISION OF SEWER SERVICES; AND AMENDING GIG HARBOR CODE SECTIONS 13.32.010, 13.32.015, 13.32.020, AND 13.32.025 TO BE EFFECTIVE BEGINNING JANUARY 1, 2006.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR:

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

APPROVED by the City Council at their regular meeting of December __, 2005.

BY: _____

MOLLY M. TOWSLEE, CITY CLERK



"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E.
CITY ENGINEER
SUBJECT: PUBLIC HEARING AND RESOLUTION ADOPTING THE SIX-YEAR
TRANSPORTATION IMPROVEMENT PROGRAM (TIP), 2006 - 2011
DATE: NOVEMBER 28, 2005

INTRODUCTION/BACKGROUND

Local agencies are required to prepare a Six-Year Transportation Improvement Program (TIP) under RCW 35.77.010. State and federal funding for transportation projects are tied to approved Six-Year Transportation Improvement Programs. While a TIP represents the anticipated projects over a six-year period, the projects undertaken in any given year are subject to the annual budget deliberation process.

The attached Six-Year TIP for 2006 through 2011 updates last year's TIP to reflect projects anticipated to be completed this year, newly funded projects, those anticipated to carry over into 2006, and the most current cost information.

The TIP also anticipates the construction of the Olympic and Point Fosdick Drive street improvements.

Miscellaneous projects in the 2006 program will respond to pavement, sidewalk, and storm drainage needs on a prioritized basis depending on location, severity, traffic volumes, safety, and funding.

The Community Development Committee met on October 20, 2005 with City Engineer Steve Misiurak and reviewed the proposed Six-Year TIP.

A completed environmental SEPA checklist was submitted to the Planning and Building Divisions for their review and the SEPA responsible official issued a Notice of Categorical Exemption (attached).

FISCAL CONSIDERATIONS

Adoption of the Six-Year Transportation Improvement Program does not directly affect the City's finances. The fiscal impacts will be reviewed during the annual budgeting process. Depending upon the availability of funds and other considerations, the Council may elect to fund more or fewer projects, and/or change project priorities.

RECOMMENDATION

I recommend that the Council approve the attached resolution adopting the Six-Year Transportation Improvement Program (2006-2011).

**CITY OF GIG HARBOR
RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF GIG HARBOR, WASHINGTON, ADOPTING A SIX-
YEAR TRANSPORTATION IMPROVEMENT PROGRAM
AND DIRECTING THE SAME TO BE FILED WITH THE
STATE SECRETARY OF TRANSPORTATION AND THE
TRANSPORTATION IMPROVEMENT BOARD.**

WHEREAS, pursuant to the requirements of Chapters 35.77 and 47.26 RCW, the City Council of the City of Gig Harbor has previously adopted a Comprehensive Transportation Plan and Transportation Improvement Program, including an arterial street construction program, and thereafter periodically modified said comprehensive transportation program by resolution, and

WHEREAS, the City Council has reviewed the work accomplished under the said Program, determined current and future City street and arterial needs, and based upon these findings has prepared a Six-Year Transportation Improvement Program for the ensuing six (6) calendar years, and

WHEREAS, a public hearing was held on the said Six-Year Transportation Improvement Program on November 28, 2005, and

WHEREAS, the City SEPA responsible official finds that there will be no significant adverse environmental impacts as a result of adoption or implementation of the Six-Year Transportation Improvement Program,

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

Section 1. Program Adopted. The Six-Year Transportation Improvement Program for the City of Gig Harbor, as revised and extended for the ensuing six (6) calendar years (2006-2011, inclusive), a copy of which is attached hereto as Exhibit A and incorporated herein by this reference as if fully set forth herein, which Program sets forth the project location, type of improvement and the estimated cost thereof, is hereby adopted and approved.

Section 2. Filing of Program. Pursuant to Chapter 35.77 RCW, the City Clerk is hereby authorized and directed to file a copy of this resolution forthwith, together with the Exhibit A attached hereto, with the Secretary of Transportation and a copy with the Transportation Improvement Board for the State of Washington.

RESOLVED this 28th day of November, 2005.

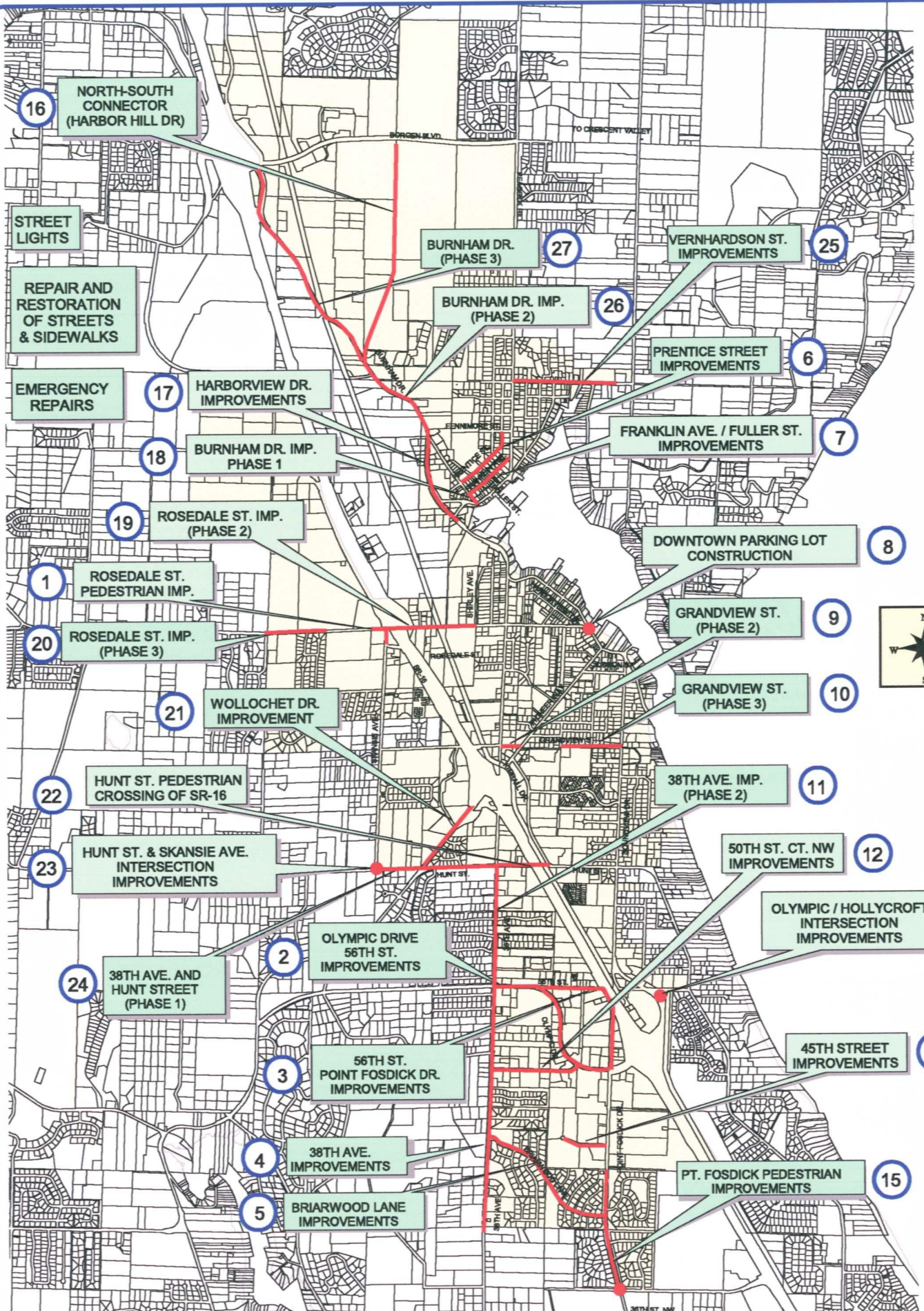
APPROVED:

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY TOWSLEE

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.



16 NORTH-SOUTH CONNECTOR (HARBOR HILL DR)

STREET LIGHTS

REPAIR AND RESTORATION OF STREETS & SIDEWALKS

EMERGENCY REPAIRS

27 BURNHAM DR. (PHASE 3)

26 BURNHAM DR. IMP. (PHASE 2)

25 VERNHARDSON ST. IMPROVEMENTS

17 HARBORVIEW DR. IMPROVEMENTS

6 PRENTICE STREET IMPROVEMENTS

18 BURNHAM DR. IMP. PHASE 1

7 FRANKLIN AVE. / FULLER ST. IMPROVEMENTS

19 ROSEDALE ST. IMP. (PHASE 2)

8 DOWNTOWN PARKING LOT CONSTRUCTION

1 ROSEDALE ST. PEDESTRIAN IMP.

9 GRANDVIEW ST. (PHASE 2)

20 ROSEDALE ST. IMP. (PHASE 3)

10 GRANDVIEW ST. (PHASE 3)

21 WOLLOCHET DR. IMPROVEMENT

11 38TH AVE. IMP. (PHASE 2)

22 HUNT ST. PEDESTRIAN CROSSING OF SR-16

12 50TH ST. CT. NW IMPROVEMENTS

23 HUNT ST. & SKANSIE AVE. INTERSECTION IMPROVEMENTS

13 OLYMPIC / HOLLYCROFT INTERSECTION IMPROVEMENTS

2 OLYMPIC DRIVE 56TH ST. IMPROVEMENTS

24 38TH AVE. AND HUNT STREET (PHASE 1)

14 45TH STREET IMPROVEMENTS

3 56TH ST. POINT FOSDICK DR. IMPROVEMENTS

4 38TH AVE. IMPROVEMENTS

15 PT. FOSDICK PEDESTRIAN IMPROVEMENTS

5 BRIARWOOD LANE IMPROVEMENTS

City of Gig Harbor

Six Year Transportation Improvement Program
2006 - 2011



Six Year Transportation Improvement Program From 2006 to 2011

Agency: Gig Harbor
 Co. No.: 27 Co. Name: Pierce Co.
 City No.: 0490 MPO/RTPO: PSRC

Hearing Date: 11/28/2005 Adoption Date: 11/28/2005
 Amend Date: _____ Resolution No.: _____

Functional Class	Priority Number	Project Identification A. Federal Aid No. B. Bridge No. C. Project Title D. Street/Road Name or Number E. Beginning MP or Road - Ending MP or Road F. Describe Work to be Done	Improvement Type(s)	Status	Total Length	Utility Codes	Project Costs in Thousands of Dollars								Expenditure Schedule (Local Agency)				Federally Funded Projects Only		
							Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information						1st	2nd	3rd	4th Thru 6th	Envir. Type	R/W Required Date (MM/YY)	
									Federal Funding		State Fund Code	State Funds	Local Funds	Total Funds							
									Federal Fund Code	Federal Cost by Phase											
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
17	1	ROSEDALE STREET IMPROVEMENT PROJECT from: Chapel Hill Church to Skansie Construct curb, gutter, planter strip, and sidewalk along this unimproved shoulder	12	S	.10	C G B T	PE CN	2/1/2006			PSMP	97	25 175	25 272	25 272						
Totals												97	200	297	297						
14	2	OLYMPIC DRIVE/56th STREET IMPROVEMENTS Olympic Drive & 56th Ave. from: 38th Ave to Point Fosdick Drive Reconstruction to provide a 5-lane section, w/ bicycle lanes, curbs, gutters, sidewalks, and landscaped planter strip on both sides, left-turn pockets / landscaped median where feasible, storm sewer improvements, lighting, and provisions for future signal at Olympic Dr / 56th St intersection	03 04 06	P	0.49	C P S T G W	CN	5/1/2007			AIP	2780	1850	4630	2780	1850					
Totals												2780	1850	4630	2780	1850					
16	3	56th ST. / PT. FOSDICK DR. IMPROVEMENTS 56th Street / Point Fosdick Drive from: Olympic Drive to Olympic Drive Reconstruction to provide a 3-lane section, w/ bicycle lanes, curbs, gutters, and sidewalks, left-turn pockets / landscaped median where feasible.	03 04 05	P	0.55	C G B T W S	CN	5/1/2009			AIP	1908	1272	3180			1908	1272			
Totals												1908	1272	3180			1908	1272			
17	4	38TH AVENUE IMPROVEMENTS -PHASE 1 38th Avenue from: City Limits to 56th Street Complete design, & construct 2- / 3-lane section, w/ left turn pockets, & w/ bicycle lanes, curbs, and gutters on both sides, a landscaped planter strip and sidewalk on the east side only, storm sewer improvements, and provisions for future lighting. Constr. in conj. w/ or subsequent to cap sew	03 06 04	P	1.0	C P O B T W	PE CN	1/1/2008 4/1/2010			AIP	4825	706 2375	706 7200			353	353 7200			
Totals												4825	3081	7906			353	7553			



Six Year Transportation Improvement Program

From **2006** to **2011**

Agency: Gig Harbor

Hearing Date: 11/28/2005 Adoption Date: 11/28/2005

Co. No.: 27 Co. Name: Pierce Co.

Amend Date: _____ Resolution No.: _____

City No.: 0490 MPO/RTPO: PSRC

Functional Class	Priority Number	Project Identification A. Federal Aid No. B. Bridge No. C. Project Title D. Street/Road Name or Number E. Beginning MP or Road - Ending MP or Road F. Describe Work to be Done	Improvement Type(s)	Status	Total Length	Utility Codes	Project Costs in Thousands of Dollars								Expenditure Schedule (Local Agency)				Federally Funded Projects Only	
							Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information						1st	2nd	3rd	4th Thru 6th	Envir. Type	R/W Required Date (MM/YY)
									Federal Funding		State Fund Code	State Funds	Local Funds	Total Funds						
									Federal Fund Code	Federal Cost by Phase										
8	9	10	11	12	13	14	15	16	17	18	19	20	21							
08	5	BRIARWOOD LANE IMPROVEMENTS Briarwood Lane from: 38th Avenue to: Point Fosdick Drive Construct curbs, gutters and sidewalk/pedestrian pathway on the south side, planter strip(s), traffic islands, and lighting.	01	P	0.59	C S T R I P T	CN	2/1/2006			PSMP	270	270	540	140	140	260			
							Totals					270	270	540	140	140	260			
19	6	PRENTICE STREET IMPROVEMENTS Prentice Street from: Fennimore Street to: Burnham Drive Curbs and gutters on both sides, sidewalk(s), storm sewer improvements, and landscaped planter strip where feasible.	03 05	P	0.30	C P T W S G	CN	5/1/2008			PSMP	150	474	624				624		
							Totals					150	474	624				624		
19	7	FRANKLIN AVE. IMP (Phase 2) Franklin Avenue / Fuller Street from: Peacock Hill Avenue to: Burnham Drive Provide curbs, gutters, and sidewalks on both sides, storm sewer improvements, water main replacement, and traffic calming features.	03 05	P	0.23	C P T W S G	CN	5/1/2008			PSMP	150	474	624				624		
							Totals					150	474	624				624		
00	8	DOWNTOWN PARKING LOT Downtown Parking Lot from: Central Busn. Dist. to: Central Busn. Dist. Design additional off street parking in conformance with City Public Works Standards.	01	P	0.03	P W	PE	1/1/2010					60	60				60		
							Totals						60	60				60		



Six Year Transportation Improvement Program

From **2006** to **2011**

Agency: Gig Harbor

Hearing Date: 11/28/2005 Adoption Date: 11/28/2005

Co. No.: 27 Co. Name: Pierce Co.

Amend Date: _____ Resolution No.: _____

City No.: 0490 MPO/RTPO: PSRC

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							Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information						1st	2nd	3rd	4th Thru 6th	Envir. Type	R/W Required Date (MM/YY)	
									Federal Funding		State Fund Code	State Funds	Local Funds	Total Funds							
									Federal Fund Code	Federal Cost by Phase											
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
17	9	GRANDVIEW STREET IMP. (PHASE 2) Grandview Street from: Pioneer Ave. to: Stinson Ave. Reconstruct Grandview Street to provide two 11 foot lanes w/ bike lanes, curb and gutters, and sidewalk.	03	P	.2		PE CN	6/1/2007 8/1/2008						60 300	60 300		60	300			
							Totals						360	360		60	300				
17	10	GRANDVIEW STREET IMP. (PHASE 3) Grandview Street from: McDonald Ave. to: Soundview Drive Reconstruct to include sidewalks w/ bike lanes and curb and gutter with landscape strips.	03 05	P	0.5	C G P S T W	PE CN	6/1/2008 3/1/2009					132 480	132 480			132	480			
							Totals						612	612			132	480			
17	11	38th AVENUE IMPROVEMENTS-PHASE 2 38th Avenue from: 56th Street to: Hunt Street Complete design, & construct 2- / 3-lane section, w/ left turn pockets, & w/ bicycle lanes, curbs, and gutters on both sides, a landscaped planter strip and sidewalk on the east side only, storm sewer improvements, and provisions for future lighting. Constr. to start w/ or subsequent to cap sew.	03 06 04	P	.5	C P O G T W	PE CN	1/1/2008 4/1/2010			AIP	4200	480 600	480 4800			240	4800			
							Totals					4200	1080	5280			240	5040			
17	12	50th COURT 50th Court from: Olympic Drive to: 38th Street Construct new two lane roadway with curb, gutter, and sidewalk.	01	P	.5	S P T W	PE CN	1/1/2008 5/1/2009			AIP	300	240 660	240 960				240 960			
							Totals					300	900	1200				1200			



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							Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information						1st	2nd	3rd	4th Thru 6th	Envir. Type	R/W Required Date (MM/YY)
									Federal Funding		State Fund Code	State Funds	Local Funds	Total Funds						
									Federal Fund Code	Federal Cost by Phase										
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
14	13	OLYMPIC/HOLLYCROFT INTERSECTION IMPROVEMENTS from: _____ to: _____ Reconfigure the intersection by constructing a single lane roundabout.	03	P	0	P C	PE CN	1/1/2006 6/1/2006			PSMP PSMP	100 250	100 250	200 500				200 500		
							Totals					350	350	700				700		
19	14	45th Street Court NW 45th Street Court NW from: Point Fosdick to: End Construct curb, gutter, and sidewalk improvements from Point Fosdick to the end of the street.	12	P	.20	G P S T W C	PE CN	1/1/2006 6/1/2006			PSMP PSMP	100 250	100 250	200 500				200 500		No
							Totals					350	350	700				700		
14	15	PT. FOSDICK DR PED IMPROVEMENT PROJECT Point Fosdick Drive from: Harbor County Lane to: 36th Ave. This project will construct approximately 2600 LF of curb, gutter, and sidewalk along the east side of Pt. Fosdick from Harbor County Drive	06	P	0.5	C G P T W	PE CN	1/1/2010 8/1/2011					48 400	48 400				48 400		
							Totals						448	448				448		
17	16	HARBOR HILL DRIVE Borgen Boulevard from: Burnham Drive to: Borgen Blvd. Design for the future Burnham Drive to Borgen Blvd roadway link.	01	P	0.91	P W S T G C	PE	1/1/2007			OTHER		300	300			300			
							Totals						300	300			300			

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							Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information					1st	2nd	3rd	4th Thru 6th	Envir. Type	R/W Required Date (MM/YY)	
									Federal Funding		State Fund Code	State Funds	Local Funds							Total Funds
									Federal Fund Code	Federal Cost by Phase										
8	9	10	11	12	13	14	15	16	17	18	19	20	21							
16	17	HARBORVIEW DRIVE IMPROVEMENT PROJECT from: North Harborview to: Burnham Drive Reconstruct roadway to provide for curb, gutters, sidewalk with bike lanes and landscape strips.	03 05 06	P	.30	P S T W	PE CN	1/1/2009 5/1/2010					86 600	86 600				86 600		
Totals												686	686				686			
17	18	BURNHAM DRIVE IMPROVEMENTS PHASE 1 Burnham Drive from: Harborview Drive to: Franklin Avenue Reconstruction, including major widening, curbs, gutters, sidewalks, storm sewer improvements, landscaped planter strips, and lighting. <i>Project will be performed in conjunction with</i>	03 05	P	0.28	O C C G P S T	CN CN	1/1/2007 4/1/2008		AIP	336	78 84	78 420		78		420			
Totals											336	162	498		78	420				
16	19	ROSEDALE STREET IMPROVEMENTS PHASE 2 Rosedale Street from: City Limits to: State Route 16 Minor widening to provide 2-thru lanes, channelization, left-turn pockets, bicycle lanes.	03 05	P	0.53	C P T	PE CN	1/1/2009 5/1/2008	STP(U) STP(U)	84 522		24 82	108 604					108 604		
Totals											606		106	712					712	
16	20	ROSEDALE STREET IMPROVEMENTS PHASE 3 Rosedale Street from: State Route 16 to: Shirley Avenue Minor widening to provide 2-thru lanes curbs, gutters, storm sewer improvements, bicycle lane and sidewalk on one side, and provisions for landscaping and lighting.	03 05	P	0.34	C P T	PE CN	1/1/2010 5/1/2009	STP(U) STP(U)	60 354		54 66	114 420					114 420		
Totals											414		120	534					534	

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							Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information						1st	2nd	3rd	4th Thru 6th	Envir. Type	R/W Required Date (MM/YY)
									Federal Funding		State Fund Code	State Funds	Local Funds	Total Funds						
									Federal Fund Code	Federal Cost by Phase										
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
14	21	WOLLOCHET DRIVE IMPROVEMENT PROJECT Wollochet Drive from: Hunt Street to: SR-16 Widen roadway to provide for 11-foot lanes with additional lanes to accommodate future WSDOT SR-16 ramp modifications with curb, gutter and sidewalk with planter strip and street lighting.	03 04	P	.5	C G P S W T	CN	1/1/2011				6000		6000				6000		
							Totals													
17	22	HUNT ST PEDESTRIAN XING OF SR-16 from: Hunt St to: Kimball Drive As part of the proposed Pierce Transit Park and Ride Project, construct an overhead Pedestrian Bridge across SR-16 linking the existing Kimball Drive Park and Ride to the new Park and Ride.	21	P	.20	O P T	PE CN	5/1/2006	5309(Bus) 5309(Bus)	200 1800	OTHER			200 1800	200			1800		
							Totals													
16	23	HUNT/SKANSIE INTERSECTION IMPROVEMENTS Hunt Street and Skansie Ave. from: Hunt Street to: Skansie Ave. Installation of a new traffic signal or a roundabout at the intersection of Hunt Street and Skansie Ave.	12	P	.1	C G P S W T	PE CN	1/1/2010 5/1/2011					120 1080	120 1080				120 1080		
							Totals													
16	24	38th / HUNT STREET (Phase 1) 38th Ave. & Hunt Street from: Skansie Avenue to: Hunt Preliminary design of a 2-1/3-lane section, w/ median &/or left turn pockets, bicycle lanes, curbs, gutters, sidewalks, and landscaped planter strip on both sides, storm sewer improvements, and	04 07	P	1.0	C S G P T W	PE CN	1/1/2010 5/1/2011			AIP	3360	600 840	600 4200				600 4200		
							Totals													

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							Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information						1st	2nd	3rd	4th Thru 6th	Envir. Type	R/W Required Date (MM/YY)	
									Federal Funding		State Fund Code	State Funds	Local Funds	Total Funds							
									Federal Fund Code	Federal Cost by Phase											
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
16	25	VERNHARDSON STREET IMPROVEMENTS Vernhardson Street from: City Limits to: Peacock Hill Avenue Pavement restoration and/or overlay, storm sewer, curbs, gutters, and sidewalk(s), bicycle lanes (east of N. Harborview Drive), and channelization. Project will be performed in	05 07	P	0.34	W T C	PE CN	1/1/2007 5/1/2009			PSMP	150	90 120	90 270		90		270			
							Totals					150	210	360		90		270			
17	26	BURNHAM DRIVE IMPROVEMENTS PHASE 2 from: Franklin Avenue to: North/South Connector Reconstruction, including major widening, curbs, gutters, sidewalks, storm sewer improvements, landscaped planter strips, and lighting. Project will be performed in	03 05 12	P	.45		PE CN	1/1/2010 4/1/2011			AIP	600	330 2400	330 3000				330 3000			
							Totals					600	2730	3330				3330			
17	27	BURNHAM DRIVE IMPROVEMENTS PHASE 3 from: North/South Connector to: Borgen BLVD Reconstruction, including minor widening, curbs, gutters, sidewalks, storm sewer improvements.	03 04 12	P	1.0	C G O P P T	PE CN	1/1/2010 4/1/2011			AIP	1200	480 3600	480 4800				480 4800			
							Totals					1200	4080	5280				5280			
Grand Totals for Gig Harbor												3020	26676	22465	52161	3417	2218	5713	40813		



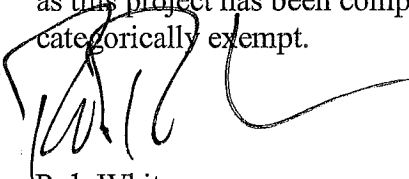
COMMUNITY DEVELOPMENT DEPARTMENT

**STATEMENT OF SEPA EXEMPTION
2006-2011 SIX-YEAR TIP**

November 7, 2005

The 2006 – 2011 Six Year Transportation Improvement Program (Six-Year TIP) was submitted to the Planning Department on November 4, 2005. An environmental checklist was submitted with the Six-Year TIP. Review of the checklist showed one change from the 2005-2010 Six-Year TIP.

The single change to the Six-Year TIP was the removal of the 36th St/Point Fosdick Roundabout as this project has been completed. The SEPA Responsible Official finds that this change is categorically exempt.



Rob White
Planning Manager
SEPA Responsible Official



"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DICK J. BOWER, CBO
BUILDING OFFICIAL/FIRE MARSHAL
SUBJECT: STAFF REPORT - EMERGENCY MANAGEMENT AND PLANNING
DATE: NOVEMBER 28, 2005

INFORMATION/BACKGROUND

The terrorist attacks of September 11, 2001 and recent natural disasters around the world have highlighted the importance of comprehensive emergency management planning at the local level. Since 9/11 the Department of Homeland Security and Federal Emergency Management Agency have begun emphasizing this importance by tying federal grant programs to compliance with Federal emergency management planning requirements.

For many years the City has contracted with Pierce County Department of Emergency Management (PCDEM) for emergency planning and preparedness activities. While the City continues this contract, the new Federal requirements mandate that we take a more active role in emergency planning by preparing local plans for comprehensive emergency management, hazard mitigation, continuation of operations and continuation of government.

The Building and Fire Safety Division has been working with other City and agency personnel and PCDEM to compile the necessary plans, training and exercises to provide an effective local emergency response to disasters and maintain compliance with federal requirements. The purpose of this memo is to give you an update on our activities. The following emergency planning efforts are complete or currently underway:

1. City Facility Emergency Plans. Site specific plans were developed for each City facility and put into effect in 2005.
2. Regional Comprehensive Emergency Management Plan (CEMP). Working with personnel from PCDEM, Fire District 5, GHPD, and the Peninsula School District, we are revising the Gig Harbor/Key Peninsula Regional Emergency Plan, which was developed in 1999. We hope to have this project wrapped up by the third quarter of 2006.
3. City CEMP. As we work on the regional plan, we're also working on drafting a City CEMP. Like the regional plan, it will be an all-hazard plan providing guidance on response to emergencies or disasters ranging from earthquake and man-made disasters to pandemics. We anticipate completion of the draft plan in late 2006.

4. City Local Hazard Mitigation Plan. PCDEM received a FEMA grant to pay for preparation of local mitigation plans. We have signed on to be partners in that process. DEM anticipates having those plans completed within the next 12-18 months.
5. City Continuation of Operations (COOP) and Continuation of Government (COG) plans. These federally required plans are for National Incident Management System (NIMS) compliance and are being worked on as annexes to the City CEMP. We're planning to have them drafted in the first half of 2006.
6. NIMS Compliance Plan. A NIMS compliance plan was required to be submitted to PCDEM as the coordinating County agency (plans are moved up to the state and FEMA for eventual review) by October of 2005. We submitted our plan in a timely manner and have received a verbal approval of the plan from PCDEM.
7. Pandemic (bird flu) Planning. The pandemic plan will be an annex to the CEMP. While we work on completing the formal plan, we have begun preparing for pandemic response by purchasing supplies to assure that essential personnel and functions are available in the event of wide spread quarantines or reduced staffing levels due to illness. The goal is to have a pandemic plan in place by the first quarter of 2006.
8. Emergency Management section in Municipal Code. The current municipal code does not include a chapter on emergency management. We will be proposing that a new chapter be added to Title 8 of the GHMC that will define the City's emergency management program and include adoption of the plans mentioned above. We are currently looking at several emergency management chapters from other area jurisdictions to see what others have done.
9. Emergency Management Training. As FEMA has developed their requirements for emergency planning, they have included mandatory levels of training for personnel whose duties include a role in the jurisdictions emergency management plans. To date, we have coordinated on-site NIMS training for the City's "mission essential" staff. Additional training needs are evolving at the Federal level and we will continue to monitor these requirements and provide training to City personnel to provide an effective and efficient response and maintain compliance with Federal and State requirements.
10. Local Emergency Planning Committee. By Federal law, the LEPC is an on-going committee responsible for planning for the transportation, storage, dispensing and use of hazardous materials. In August 2005, I was appointed by County Executive Ladenburg to a position on the County LEPC. Participation in the LEPC will assure that our concerns regarding the transportation, storage and use of hazardous materials are taken into consideration in the overall County planning effort and will provide valuable education and assistance in our permitting of occupancies using Haz-Mats within the City.

This is a snap shot of our emergency management and planning efforts to date. If there are any questions about our emergency management program or planning efforts, please don't hesitate to stop by my office or call and I'll do my best to provide the answers.



MAKE A DIFFERENCE DAY

FORT LEWIS & GIG HARBOR

OCTOBER 22, 2005

COLONEL HILTON'S SOLDIERS FROM FT. LEWIS





