

Gig Harbor City Council Meeting

May 27, 2008

5:30 p.m.

**(note early start time and meeting
on Tuesday due to holiday)**



**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
May 27, 2008 – 5:30 p.m.
(note Tuesday meeting date and early starting time)**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

1. Swearing In Ceremony – Reserve Officer Grant Boere.
2. Harborview / Judson Update – Eric Schmidt.

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of May 12, 2008.
2. Liquor License Renewals: Target Store; Puerto Vallarta; Round Table Pizza.
3. Liquor License Application: Gig Harbor Wine Cellars.
4. Resolution 753 – Surplus Vehicle.
5. Wagner Way Traffic Signal – Right of Way Easement Agreement Shell Gas Station & Mini-Mart.
6. Amendment to Assigned Counsel Agreement.
7. Resolution No. 754 - Support of Grant Application for Eddon Boat Park Development and Acquisition Reimbursement.
8. Resolution No. 755 – Skansie Ad Hoc Committee Schedule Extension.
9. Pierce County GIS Network Agreement & Agreement for Development of Quickview Mapping Services.
10. Appointments to Gig Harbor Arts Commission.
11. Pierce County/City Stormwater Mapping Inventory Services Contract.
12. Slayback and Vasquez – Release and Covenant Not To Sue.
13. Transportation Capacity Availability Report & Traffic Model – Consultant Services Contract / PTV America.
14. Amendment to Contract – Eddon Boatyard Park Design – Anchor Environmental.
15. Storm Water Comprehensive Plan Update – Consultant Services Contract / Pace Engineering.
16. 2008 Watermain Replacement – Bid Award.
17. Approval of Payment of Bills for May 27, 2008:
Checks #57687 through #57861 in the amount of \$1,098,641.71.

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

OLD BUSINESS:

1. Second Reading of Ordinance – R-2 Zoning District Amendment (ZONE 08-0002).

NEW BUSINESS:

1. Eddon Boat Remediation Agreed Order from Dept. of Ecology.
2. Public Hearing and First Reading of Ordinance – Height Restriction Area Criteria Amendment (ZONE 07-0012).
3. Public Hearing and First Reading of Ordinance – PRD and PUD amendments (ZONE 07-0020).
4. Public Hearing and First Reading of Ordinance – Nonconforming use and structures amendment (ZONE 08-0001).

STAFF REPORT:

1. Olympic / 56th Ribbon Cutting Ceremony.

PUBLIC COMMENT:

MAYOR’S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. GH North Traffic Options Committee – Wednesday, June 11th, at 9:00 a.m. in Community Rooms A & B.
2. Downtown Business Plan – June 3rd at 5:00 p.m. at the Visitor’s Center.
3. Finance Committee: Monday, June 16th at 4:00 p.m.
4. City Council / Design Review Board Workstudy Session: Monday, June 16th at 6:00 p.m. Community Rooms A&B.
5. Harborview / Judson Streets Stakeholder Meeting: Tues. June 10th at 7:00 p.m.; Tues. July 15th at 7:00 p.m. in Community Rooms A & B.
6. Operations & Public Projects Committee: June 19th at 3:00 p.m.
7. Olympic / 56th Ribbon Cutting Ceremony – Monday, June 23rd at 12:00 p.m.

ADJOURN:

GIG HARBOR CITY COUNCIL MEETING OF MAY 12, 2008

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

CALL TO ORDER: 6:00 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

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

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

PRESENTATIONS: KGI Watershed Presentation.

Jeff Langhelm, Associate Engineer, gave an overview of the city's decade long participation in the Key Peninsula Gig Harbor Islands Watershed Counsel, also known as KGI, an organization created to protect water quality and the beneficial uses of water. He introduced Barbara Ann Smolko, Watershed Coordinator for Pierce County's Water Program and KGI.

Ms. Smolko introduced Chair of the KGI Watershed Counsel, Erin Ewold and Kris Shutes, staffing for KGI, before proceeding with an update on what has been happening with the organization and what is currently going on. Ms. Smolko said the goal is for healthy fish, wildlife and people through partnerships, education, and monitoring efforts.

She finalized by asking for the city's continued participation with the counsel and support of efforts such as the Donkey Creek Chum Festival and habitat improvements for Donkey Creek and Crescent Creek. She suggested supporting small grant programs as well as signing an agreement with the Conservation District to do a Stream Team Program here in the city.

Ms. Smolko addressed questions about the Stream Team Program. She explained that it allows people to monitor the water quality in streams and to perform a variety of educational activities. The program requires an Interlocal agreement with the Conservation District to allow the crossing of jurisdictions while monitoring. She further explained that if the city is facing certain problems with water quality, these can be addressed through a series of targeted workshops.

OLD BUSINESS:

1. Second Reading of Ordinance – Update of Building Codes. Rob Karlinsey, City Administrator, presented this ordinance to keep up with changes at the state level.

MOTION: Move to adopt Ordinance No. 1128 as presented.
Franich / Young – unanimously approved.

2. Tides Tavern Lease Agreement. Rob Karlinsey explained that last December Council approved a lease for a small portion of city-owned tidelands with changes suggested by the City Attorney, but the proponent disagreed with the amendments and would not sign the agreement. He said that this is before Council again as an opportunity for them to suggest alternative language. He said that they don't appear to be present and suggested that this be considered later tonight in case they arrive later in the meeting.

The Mayor agreed to move this to the end of new business. He then asked to add an agenda item for the Skansie Ad Hoc Committee.

3. Skansie Ad Hoc Committee meeting schedule extension.

John Moist – 3323 Harborview Drive. Mr. Moist reported that the Ad Hoc committee is requesting an additional two meetings due to the overwhelming public interest. The additional meetings are scheduled for June 3rd and June 17th, the last to be a public hearing. A final report and recommendation is suggested to come before Council no later than August 2008.

Councilmembers asked staff to draft an amendment to the resolution reflecting these changes to bring back at the next meeting on Consent Agenda.

NEW BUSINESS:

1. First Reading of Ordinance – Heritage Point Map Amendment. Tom Dolan, Planning Director, described the process that led to this ordinance amending the zoning

map to remove a parcel from the height restriction area to be consistent with the Hearing Examiner's decision on the site specific amendment.

MOTION: Move to adopt Ordinance No. 1129 at its first reading.
Kadzik / Payne – unanimously approved.

2. Downtown Business Plan – Consultant Services Contract. Rob Karlinsey presented this agreement to develop a business plan for enhancing the downtown economic activity while preserving the character of the area. He said that Rod Stevens, the consultant, was present to answer questions.

There was discussion on how this plan would tie in with the Main Street Program as well as the Harborview / Judson Street Improvement project.

Councilmember Franich said he feels even more out of step with this administration and Council because he believes that the free market should dictate economics, not the government.

Mayor Hunter responded that this is an attempt to bolster the downtown area due to the competition from new development.

Councilmember Payne voiced support of this effort as long as there are appropriate parameters and the focus is on those who live here, not outsiders.

Mayor Hunter then commented that he will be following this closely to make sure we don't lose what we have downtown and to ensure that there is an appropriate outcome.

Councilmember Ekberg said that many cities are spending a great deal of money to create downtowns. Gig Harbor already has one, and this is an effort to get the citizens involved to enhance what is already here without trying to create something new.

Councilmember Young cautioned everyone of the importance in gaining a broad range of input to avoid another failed attempt.

Councilmember Kadzik said that he thinks this is a good plan, adding that he is proud to serve on a Council with the foresight to be proactive.

Rod Stevens, the consultant, explained that his role is to act as an aid to the process to involve the entire community and to ensure buy-in. He stressed that it's not just about the main street and shops; it's about the whole area. He talked about bringing forward ideas while ensuring that the stakeholders take ownership in the process.

MOTION: Move to authorize the Downtown Business Plan consultant Services Agreement with Spinnaker Strategies for \$30,000.00.
Payne / Ekberg – five voted in favor. Councilmember Franich voted no.

3. Public Hearing and First Reading of Ordinance – R-2 Zoning District Amendment (ZONE 08-0002). Tom Dolan presented the background for these proposed amendments to the Medium Density Residential zone. He addressed questions from Council.

Mayor Hunter opened the public hearing at 7:08 p.m. No one came forward to speak and the hearing closed.

Council thanked both staff and the Planning Commission for coming up with logical solutions to the issue of existing non-conforming structures in R-2 zones. This will return for a second reading at the next meeting.

4. Resolution No. 752 – Support of Mainstreet Program. Rob Karlinsey presented this resolution affirming the City's support for and endorsement of the Gig Harbor Waterfront Association and its use of the Main Street program.

Councilmembers Payne and Kadzik voiced their support of this resolution.

MOTION: Move to adopt Resolution No. 752 in support of the Mainstreet Program.

Kadzik / Ekberg – unanimously approved.

Councilmember Kadzik recused himself from the next agenda item and left the Council Chambers.

5. Mainstreet Program Agreement. Rob Karlinsey presented this agreement with the Gig Harbor Historic Waterfront Association to provide certain deliverables to the city. In return the city will contribute up to \$70,000 for 2008. The first \$35,000 is a non-matched contribution, and the second \$35,000 is a dollar for dollar match of contributions from other sources. He explained that the city will receive credit for office space and equipment the group might use.

Councilmember Malich asked for clarification on how the city's contribution works. Mr. Karlinsey responded that outside funding would have to be raised before the city matches the second \$35,000, and the in-kind credit would be considered before any cash amounts.

Councilmember Franich said he doesn't believe that the city should be spending money on this.

Rob Karlinsey pointed out changes to the contract on page 2, paragraph 2 (B). After further discussion, he was directed to amend page 2, paragraph 2. B to read: "This agreement is intended to provide to GHHWA "in-kind" lease of office and conference

space in the Bogue Building until December 31, 2008.” One other small change was to insert the word “contribution” in two places in paragraph C. on page 5.

MOTION: Move to approve the agreement between the City and the Gig Harbor Historic Waterfront Association with changes as noted by staff.
Payne / Conan – six voted in favor. Councilmember Franich voted no.

Mayor Hunter said he wanted to clarify that these funds are committed for 2008, and there is no promise for funds in following years. It will be considered during budget time.

Councilmember Kadzik returned to the Council Chambers at this time.

Because there wasn't anyone to represent the Tides Tavern Lease Agreement, Council agreed that this should be brought back on a future agenda.

STAFF REPORT:

1. Gig Harbor Police Department – Monthly Report. Chief Davis presented information on the Department's move toward more accurate tracking of officer activities using electronic statistical reporting.

2. Pierce County District Court – Toll Violation Hearings. Rob Karlinsey reported that due to the low numbers, Pierce County has decided not to continue holding toll violation hearings here at the Civic Center.

3. Rob Karlinsey announced that updates to the city's fireworks ordinance would be coming before council to reflect changes in state law, specifically the definitions section. He asked if Council would be interested in banning fireworks in the city parks. Council asked if it had been an issue. Chief Davis responded that no, there are no concerns. Council said they would not be interested in moving this forward.

Councilmember Franich asked if the police had to enforce the recent smoking ban in the parks. Chief Davis responded that he knew of one incident in which a youth had been issued a citation at the Skatepark.

Councilmember Young said that the city laborers have commented that the ban is working because of the lack of cigarette butts. Councilmember Payne agreed, saying that he hadn't seen any violations during family visits to the parks.

PUBLIC COMMENT: None.

MAYOR’S REPORT / COUNCIL COMMENTS:

Mayor Hunter reported that he visited the Women’s Correction Center last week. He shared several statistics about the prison, as well as a list of the programs that are provided. He said it was a very interesting visit.

Mayor Hunter said that he attended a forum put on by the Cascadia Center on water-taxis. He reported that Gig Harbor couldn’t generate enough trips to make this effort worthwhile, as it would take around 200 round-trips per day to make a foot-ferry feasible. He talked about the other jurisdictions that are actively involved and the impact of the cross-sound ferries on Indian Fishing Rights.

Councilmember Payne praised the staff effort in obtaining Uddenberg Lane. He then asked about the sediment remediation contract on the Consent Agenda that came in below budget. Rob Karlinsey responded that the budget amount on the agenda bill reflects the overall dollar amount of the entire remediation project. The contract itself came in right at the engineer’s estimate. This fiscal note in the agenda bill explains it in more detail.

ANNOUNCEMENT OF OTHER MEETINGS:

1. GH North Traffic Options Committee – Wednesday, June 11, 2008 at 9:00 a.m. in Community Rooms A & B.
2. Harborview/Judson Open House – May 13th and May 27th at 7:00 p.m. in Community Rooms A&B.

Councilmember Kadzik asked who owned Gilich, Adams, and Stanich Streets because this might make a difference in the recommendation from the Harborview/Judson Street Stakeholders committee. He reported that the Main Street Group had obtained preliminary figures for a parking inventory and these streets might play into these figures as well. Rob Karlinsey said that he would get back with that information.

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

MOTION: Move to adjourn to Executive Session at 7:49 p.m. for approximately 45 minutes for the purposes of discussing potential litigation per RCW 42.30.110(1)(i).and personnel issues per RCW 42.30.110(1)(f).

Franich / Young – unanimously approved.

MOTION: Move to return to regular session at 8:34 p.m.

Kadzik / Conan – unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 8:34 p.m.
Conan / Kadzik – unanimously approved.

CD recorder utilized:
Disk #1 Tracks 1- 29
Disk #2 Tracks 1- 8

Charles L. Hunter, Mayor

Molly Towslee, City Clerk

C091080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

DATE: 5/05/08

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
 (BY ZIP CODE) FOR EXPIRATION DATE OF 20080831

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1	TARGET CORPORATION TARGET STORE # T-1205 11400 51ST AVE NW GIG HARBOR WA 98332 0000	087016	GROCERY STORE - BEER/WINE
2	ANDRADE'S, INC. PUERTO VALLARTA - GIG HARBOR #2 4225 HARBORVIEW DR GIG HARBOR WA 98335 0000	364637	SPIRITS/BR/AN REST LOUNGE +
3	WYVERN RESTAURANTS, INC. ROUND TABLE PIZZA 5500 OLYMPIC DR BLDG H GIG HARBOR WA 98335 0000	076725	BEER/WINE REST - BEER/WINE



NOTICE OF LIQUOR LICENSE APPLICATION

Consent Agenda - 3

RETURN TO:

WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-3075
Customer Service: (360) 664-1600
Fax: (360) 753-2710
Website: www.liq.wa.gov

JAR

TO: MOLLY TOWSLEE, CITY CLERK
RE: NEW APPLICATION

DATE: 5/14/08

UBI: 602-829-976-001-0001

License: 403430 - 1U County: 27
Tradename: GIG HARBOR WINE CELLARS
Loc Addr: 4793 POINT FOSDICK DR NE
STE 300
GIG HARBOR WA 98335-2315
Mail Addr: PO BOX 1319
ISSAQUAH WA 98027-0052
Phone No.: 425-391-6612 LANE SCELZI

APPLICANTS:

GIG HARBOR WINE CELLARS LLC
SCELZI, LANE HOOVER
1965-01-02
SCELZI, SARAH BARNES
(Spouse) 1973-05-01

Privileges Applied For:
SPIRITS/BR/WN REST LOUNGE +

As required by RCW 66.24.010(8), the Liquor Control Board is notifying you that the above has applied for a liquor license. You have 20 days from the date of this notice to give your input on this application. If we do not receive this notice back within 20 days, we will assume you have no objection to the issuance of the license. If you need additional time to respond, you must submit a written request for an extension of up to 20 days, with the reason(s) you need more time. If you need information on SSN, contact our CHRI Desk at (360) 664-1724.

- 1. Do you approve of applicant?
2. Do you approve of location?
3. If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken?
4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based.

DATE

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE



Subject: Resolution – Surplus Equipment

Proposed Council Action:

Adopt Resolution No. 753 to Surplus a
1990 Chevrolet S-10 Pickup Truck

Dept. Origin: Community Development

Prepared by: Marco Malich, Interim
Director of Operations

For Agenda of: May 27, 2008

Exhibits: Resolution No. 753

Initial & Date

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

CLH 5/13/08
AK 5/12
cam 5/12/08
OR 5/12/08

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

Staff requests authorization to surplus the following equipment: One 1990 Chevrolet S-10 Pickup Truck, Serial #1GCCS19Z4M8150134/Asset ID #3002. This resolution is required to surplus this equipment and send it to auction.

FISCAL CONSIDERATION

Proceeds from the auctioning of these items will go to the general fund.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Adopt Resolution No. 753 authorizing the surplus of a 1990 Chevrolet S-10 Pickup Truck.

RESOLUTION NO. 753

**A RESOLUTION OF THE CITY OF GIG HARBOR
DECLARING CITY EQUIPMENT SURPLUS AND ELIGIBLE
FOR SALE.**

WHEREAS, the Gig Harbor City Council has determined that city-owned equipment is surplus to the City's equipment needs and has been or is in need of being replaced with new equipment; and

WHEREAS, the City may declare such equipment surplus and eligible for sale;

NOW, THEREFORE, the City Council of the City of Gig Harbor hereby resolves as follows.

To declare as surplus:

	EQUIPMENT		SERIAL / Asset ID number	Mileage
1	1990 Chevrolet S-10 Pickup		1GCCS19Z4M8150134 / 3002	81,586
2				
3				
4				

PASSED ON THIS 27th day of May, 2008.

APPROVED:

MAYOR CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 05/09/08
PASSED BY THE CITY COUNCIL:
RESOLUTION NO. 753



Subject: Wagner Way Traffic Signal (CSP-0714) - Right-Of-Way Easement Agreement for the Shell Gas Station and Mini-Mart – Satish and Varsha Changela

Proposed Council Action: Approve the Right-Of-Way Easement Agreement as presented.

Dept. Origin: Engineering/Operations

Prepared by: Willy Hendrickson
Engineering Technician

For Agenda of: May 27, 2008

Exhibits: Right-Of- Way Easement Agreement

	Initial & Date
Concurred by Mayor:	<u>CHA 5/14</u>
Approved by City Administrator:	<u>PK 5/14</u>
Approved as to form by City Atty:	<u>CAM 5/19/08</u>
Approved by Finance Director:	<u>N/A</u>
Approved by Department Head:	<u>[Signature]</u>

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

As a condition of approval of the Wagner Way Traffic Signal project, a Right-Of-Way Easement Agreement is required dedicating to the City a 1100 square foot piece of land for the purpose of constructing a traffic signal within the northwestern property of parcel number 0221074048, located at 6615 Wollochet Dr. NW, and currently owned by Satish and Varsha Changela.

The City's standard Right-Of-Way Easement Agreement has been reviewed and approved as to form by City Attorney, Carol Morris.

City Council approval of the Right-Of-Way Easement Agreement is requested.

FISCAL CONSIDERATIONS

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

RECOMMENDATION / MOTION

Move to: Approve the Right-Of-Way Easement Agreement as presented.

AFTER RECORDING RETURN TO:

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

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

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

Right-Of-Way Easement Agreement – Traffic Signal

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

Satish and Varsha S. Changela, husband and wife

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

City of Gig Harbor

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

Section 07 Township 21 Range 02 Quarter 44

Assessor's Property Tax Parcel or Account Number: 0221074048

Reference Number(s) of Documents assigned or released:

**RIGHT-OF-WAY EASEMENT AGREEMENT
TRAFFIC SIGNAL**

THIS INSTRUMENT, executed this date by and between the City of Gig Harbor, a Washington municipal corporation (the "City" herein), and Satish and Varsha S. Changela, husband and wife, whose mailing address is 709 SW 328th ST., Federal Way, WA 98023-5221, as the owners of the within-described property (the "Owners" herein):

WITNESSETH:

WHEREAS, Owners own a fee simple and/or have a substantial beneficial interest in the following real property, commonly known as Shell Gas Station and Mini Mart, located at 6615 Wollochet Dr. NW, Gig Harbor WA, 98335, and legally described in **Exhibit A**, attached hereto and incorporated herein by this reference; and

WHEREAS, the City desires an easement for the purpose of installing, monitoring, inspecting, maintaining, operating, improving, repairing, a traffic signal; and

NOW, THEREFORE, the parties hereto agree as follows:

In consideration of one dollar (\$1.00), receipt of which is hereby acknowledged, Owners hereby convey and warrant to the City, a perpetual, nonexclusive easement, under, over, through and across the Property, for the purposes of installing, monitoring, inspecting, maintaining, improving, repairing, a traffic signal, which easement (the "Easement" herein) is legally described in the Exhibit attached hereto as **Exhibit B** and incorporated herein by this reference, and as shown on the Easement Location Map attached hereto as **Exhibit C** and incorporated herein.

This Easement is subject to and conditioned upon the following terms and covenants, which both parties promise to faithfully and fully observe and perform:

1. Limitations on Owners. The Owners shall not retain the right to use the surface of the Easement. In addition, the Owners shall not directly or indirectly have the right to:

- A. Erect or install, or cause to be erected or installed, any buildings, structures, pavement, or facilities within the Easement; or
- B. Plant, or cause to be planted, any additional trees, shrubs, or vegetation with deep root patterns which may cause damage to or interfere with the drainage system located within the Easement; or
- C. Grant any additional or subsequent easement inconsistent with the rights of the City as granted herein. The City shall make the final

determination whether any proposed subsequent easement is inconsistent with the City's Easement.

2. Notice of Entry. The Owners, their successors and assigns, shall allow access to the Easement by the City, without the City having to give prior notice of its intent to access the Easement.

3. Indemnification, Hold Harmless. The Owners hereby release, covenant not to bring suit and agree to indemnify, defend and hold harmless the City, its officers, officials, employees, agents and representatives from any and all claims, costs, judgments, losses or suits including attorneys' fees, awards or liabilities to any person arising out of or in connection with this Easement, except for injuries or damages caused by the sole negligence of the City.

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

The provisions of this section shall survive the termination of this Easement.

4. Dispute Resolution and Attorneys Fees. If any dispute arises between the Owners and the City under any of the provisions of this Easement which cannot be resolved by agreement of the parties, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Easement shall be governed by and construed in accordance with the laws of the State of Washington. The prevailing party of any such litigation shall be entitled to recover its reasonable attorneys' fees and costs, including any expert witness fees.

5. Waiver. No waiver by either party of any term or condition of this Easement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or a different provision of this Easement.

6. Merger. This Easement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Easement and no prior agreements shall be effective for any purpose.

7. Severability. If any of the provisions contained in this Easement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

8. Easement Binding on Successors and Assigns. This instrument shall be recorded in the records of the Pierce County Auditor at the expense of the Owners and shall inure to the benefit of and be binding upon the Owners, its legal representatives, assigns, heirs and all owners of an after-acquired interest in the Property, and their successors and assigns.

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

THE CITY OF GIG HARBOR

OWNER

By: _____
Its Mayor

By: S. A. Changela

Print Name: Satish Changela

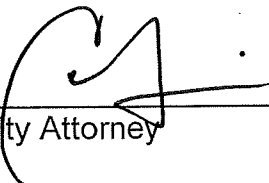
ATTEST:

City Clerk

By: V. Changela

Print Name: Varsha Changela

APPROVED AS TO FORM:

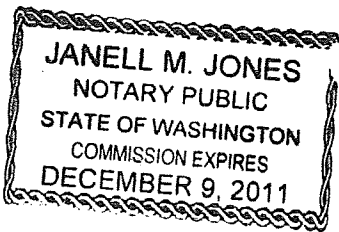


City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF King)

I certify that I know or have satisfactory evidence that Satish A Changela is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 5-8-08

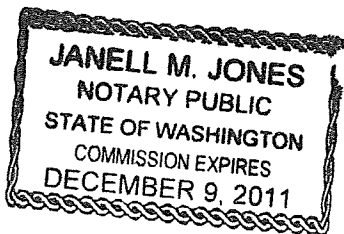


[Signature]
(Signature)
Janell M Jones
NOTARY PUBLIC, State of Washington,
residing at: King County
My appointment expires: 12-9-11

STATE OF WASHINGTON)
) ss.
COUNTY OF King)

I certify that I know or have satisfactory evidence that Varsha S Changela is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 5-8-08



[Signature]
(Signature)
Janell M Jones
NOTARY PUBLIC, State of Washington,
residing at: King County
My appointment expires: 12-9-11

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

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

DATED: _____

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

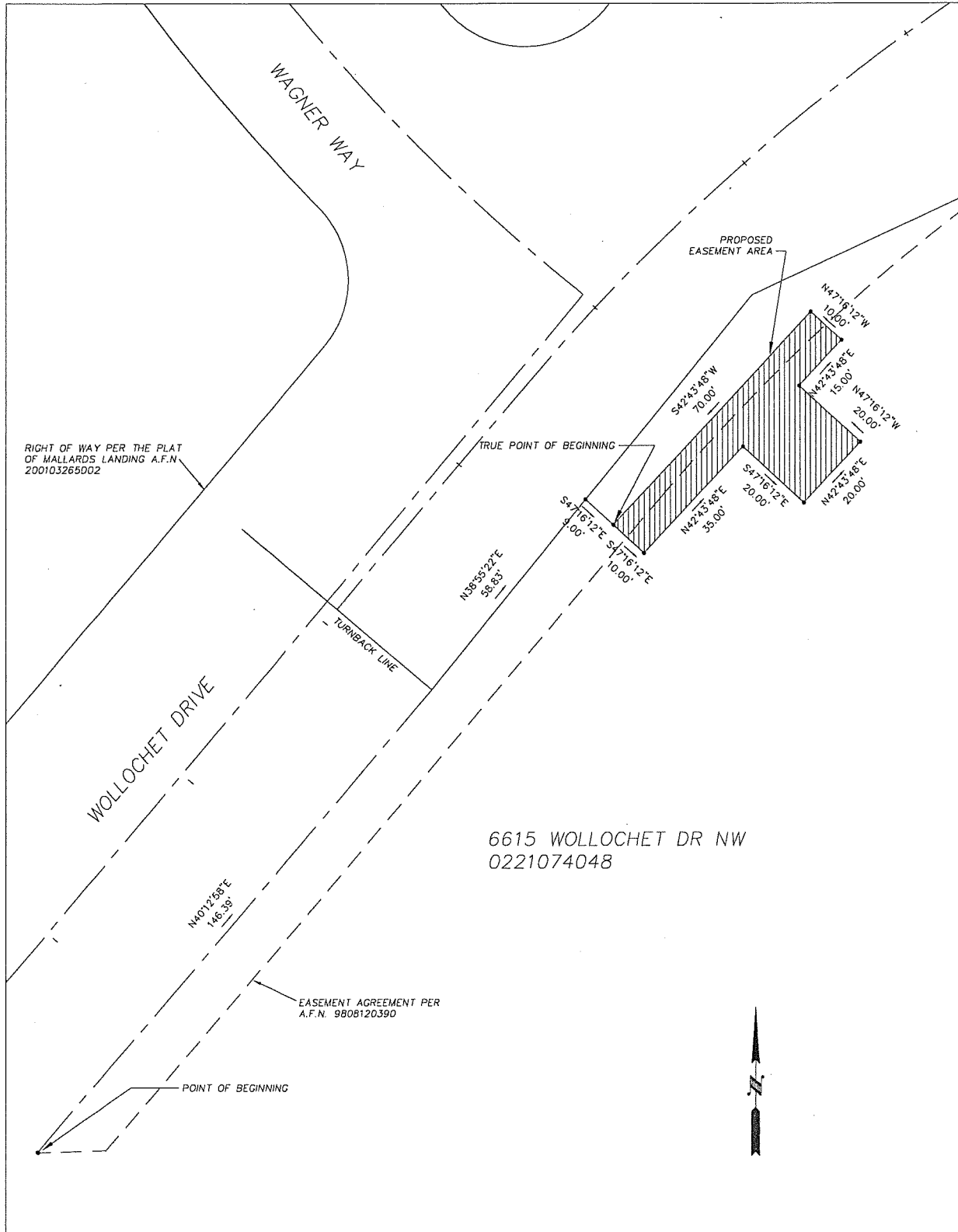
**EXHIBIT A
PROPERTY LEGAL DESCRIPTION**

THAT PORTION OF THE NORTH HALF OF LOTS 14 AND 15, GIG HARBOR
ABANDONED MILITARY RESERVATION IN SECTION 7, TOWNSHIP 21 NORTH, RANGE 2
EAST, OF THE W.M., IN PIERCE COUNTY, WASHINGTON, LYING SOUTHERLY OF
WOLLOCHET GIG HARBOR COUNTY ROAD.
EXCEPT PORTION CONVEYED TO THE STATE OF WASHINGTON FOR STATE HIGHWAY
BY DEED RECORDED UNDER AUDITOR'S NUMBER 2380567.

**EXHIBIT B
EASEMENT LEGAL DESCRIPTION**

A PORTION OF PARCEL NO. 0221074048 THAT ABUTTS THE RIGHT OF WAY OF WOLLOCHET DRIVE, WHOSE SOUTHWEST PROPERTY CORNER BEING THE "POINT OF BEGINNING", THENCE N40°12'58"E A DISTANCE OF 146.39', THENCE N38°55'22"E A DISTANCE OF 58.83', THENCE S47°16'12"E A DISTANCE OF 9.00' TO A POINT BEING THE "TRUE POINT OF BEGINNING", THENCE S47°16'12"E A DISTANCE OF 10.00', THENCE N42°43'48"E A DISTANCE OF 35.00', THENCE 47°16'12"E A DISTANCE OF 20.00', THENCE N42°43'48"E A DISTANCE OF 20.00', THENCE N47°16'12"W A DISTANCE OF 20.00', THENCE N42°43'48"E A DISTANCE OF 15.00', THENCE N47°16'12"W A DISTANCE OF 10.00', THENCE S42°43'48"W A DISTANCE OF 70.00' AND RETURNING TO THE "TRUE POINT OF BEGINNING".

EXHIBIT C EASEMENT LOCATION MAP





Subject: Assigned Counsel Agreement
First Amendment

Proposed Council Action:

Authorize the Mayor to sign the First Amendment to the Assigned Council Agreement

Dept. Origin: Administration

Prepared by: City Attorney

For Agenda of: May 13, 2008

Exhibits:

Initial & Date

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Handwritten initials and dates: CLH 5/13/08, POK 5/13/08, CAM 5/13/08, CD 5/13/08

Table with 4 columns: Expenditure Required, Amount Budgeted, Appropriation Required, and values: \$51,959.00, \$51,959.00, \$51,959.00.

INFORMATION / BACKGROUND.

Pierce County provides indigent defense services for the Gig Harbor Municipal Court through Pierce County's Department of Assigned Counsel. The attached contract amendment authorizes an increase over the prior Agreement. In 2007, the cost was \$45,545, and the cost of this Agreement is 51,959.04.

According to the County, the increase has been made necessary because the court now has a video camera and an additional attorney is required. In addition, there is a COLA increase of 3.15% because the County budget was increased by 3.15%.

FISCAL CONSIDERATION.

The amount is included in the City's budget.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION.

Recommend that the Council authorize the Mayor to sign the First Amendment to Assigned Counsel Agreement.

FIRST AMENDMENT TO ASSIGNED COUNSEL AGREEMENT

THIS FIRST AMENDMENT to the Assigned Counsel Agreement is entered into this ____ day of _____, 2008, by and between the City of Gig Harbor (hereinafter the "City") a non-charter code city organized under the laws of the State of Washington, and Pierce County, a political subdivision of the State of Washington.

WITNESSETH:

WHEREAS, the parties entered into an Agreement for the provision of legal counsel services to indigent defendants in the Gig Harbor Municipal Court for the 2007-2008 calendar years; and

WHEREAS, this Assigned Counsel Agreement (hereinafter the "Agreement") was dated January 1, 2007, and was executed by the duly authorized representatives of both parties; and

WHEREAS, as contemplated by Section 2 of the Agreement, the Department of Assigned Counsel is asking that the City amend the Agreement to increase the compensation provided to the Department in accordance with a three point fifteen percent (3.15%) Cost of Living Allowance ("COLA") because the County budget was increased by 3.15%; and

WHEREAS, effective in June, 2008, the Gig Harbor Municipal Court will be adding video in-custody arraignments to their preexisting calendar; and

WHEREAS, the added video calendar will necessitate the addition of another attorney for that calendar; and

WHEREAS, the parties have agreed upon compensation in the amount of Five Thousand Dollars (\$5,000) for the period of July 1, 2008, through December 31, 2008; and

WHEREAS, the increase in the COLA and the additional staffing would increase the total amount of the contract to Fifty-One Thousand, Nine Hundred Fifty-Nine Dollars and Four Cents (\$51,959.04);

WHEREAS, an amendment to the Agreement is necessary for the COLA and the additional staffing to be come effective: Now, Therefore,

In consideration of the mutual promises contained in the Agreement and this First Amendment, the parties hereto agree as follows:

TERMS:

Section 1. Section 2 of the Assigned Counsel Agreement identified above is hereby amended to read as follows:

2. In return for the services rendered to the City and to those indigent defendants represented by the Department, the City agrees to pay the County a sum not to exceed Fifty-One Thousand, Nine Hundred Fifty-Nine Dollars and Four Cents (\$51,959.04) ~~\$45,525.00 for period January 1, 2007, through December 31, 2007,~~ commencing January 1, 2008, and ending December 31, 2008. Payments shall be due and payable in the amount of Eleven Thousand, Seven Hundred Thirty-Nine Dollars and Seventy-Six Cents (\$11,739.76) ~~\$11,381.25~~ at the end of the first and second quarter, and Fourteen Thousand, Two Hundred Thirty-Nine Dollars and Seventy-Six Cents (\$14,239.76) at the end of the third and fourth quarter for those services rendered.

Section 2. All of the remaining terms of the Assigned Counsel Agreement shall be unaffected by this First Amendment, and shall be fully enforceable by either party.

Section 3. Severability. If any court of competent jurisdiction finds that any provision, sentence or phrase of this First Amendment or the Agreement is invalid or unconstitutional, such invalidity shall not affect the validity or constitutionality of any other provision, sentence or phrase.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the day and year first above written.

CITY OF GIG HARBOR

PIERCE COUNTY

Mayor Date

Michael R. Kawamura Date
Director, Department of Assigned Counsel

City Administrator Date

Attest:

Approved as to legal form only:

City Clerk Date

By _____
Deputy Prosecuting Attorney Date

Approved as to legal form only:

Recommended:

City Attorney Date

By _____
Budget & Finance Date



Subject: Resolution to apply for a Washington State Recreation and Conservation (RCO) Grant to develop Water Access at Eddon Boat Park.

Proposed Council Action: Adopt Resolution No. 754 authorizing a RCO Grant application for state funding.

Dept. Origin: Administration

Prepared by: Lita Dawn Stanton
Special Projects

For Agenda of: May 27, 2008

Exhibits: Resolution No. 754

Initial & Date

Concurred by Mayor:

CLH 5/14/08

Approved by City Administrator:

POK 5/14/08

Approved as to form by City Atty:

CPM 5/19/08

Approved by Finance Director:

DP 5/19/08

Approved by Department Head:

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

INFORMATION / BACKGROUND

Eddon Boat Park was acquired through the 2005 Voted General Obligation (UTGO) Bond. In 2006 the City filed a Waiver of Retroactivity to extend the City's ability to use the UTGO Bond as match. The Waiver will expire this year. The RCO-WWRP-Water Access Development Grant requires that the City pass a resolution authorizing the City's share (1:1) of project funding.

FISCAL CONSIDERATION

This is a reimbursement grant that is already matched through the 2005 UTGO Bond.

BOARD OR COMMITTEE RECOMMENDATION

n/a

RECOMMENDATION / MOTION

Move to: Adopt Resolution No. 754 to apply for a Washington State RCO Grant to develop water access at Eddon Boat Park. If successful, funding would be available in 2010.

CITY OF GIG HARBOR
RESOLUTION NO. 754

A RESOLUTION OF THE CITY OF GIG HARBOR AUTHORIZING APPLICATION FOR FUNDING ASSISTANCE FOR A WASHINGTON WILDLIFE AND RECREATION PROGRAM (WWRP) PROJECT TO THE RECREATION AND CONSERVATION OFFICE (RCO) AS PROVIDED IN CHAPTER 79A.15 RCW, ACQUISITION OF HABITAT CONSERVATION AND OUTDOOR RECREATION OF LANDS.

WHEREAS, the City of Gig Harbor has approved a comprehensive plan that includes a project known as the **Eddon Boat Park Acquisition and Development Project**; and

WHEREAS, under the provisions of WWRP, state funding assistance is requested to aid in financing the cost of land acquisition and/or facility development; and

WHEREAS, the City Council considers it in the best public interest to complete the land acquisition and/or facility development project described in the application;

NOW, THEREFORE, BE IT RESOLVED that:

1. The Mayor be authorized to make formal application to RCO for funding assistance;
2. Any funding assistance received be used for implementation of the project referenced above;
3. The City hereby certifies that its share of project funding is committed and will be derived from **Proposition No. 1 Land Acquisition and Development General Obligation Bond**;
4. The City acknowledges that we are responsible for supporting all non-cash commitments to the sponsor share should they not materialize;
5. The City acknowledges that any property acquired or facility developed with financial aid from the Recreation and Conservation Funding Board (RCFB) must be placed in use for the funded purpose and be retained in such use in perpetuity unless otherwise provided and agreed to by the City and RCFB;

6. This resolution becomes part of a formal application to RCO; and
7. We provided appropriate opportunity for public comment on this application.

RESOLVED by the City Council this 27th day of May, 2008.

APPROVED:

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 05/13/08
PASSED BY THE CITY COUNCIL: 05/27/08
RESOLUTION NO. 754



Subject: Skansie Brothers Park Ad Hoc Committee Meeting Schedule Extension

Proposed Council Action: Amend the meeting schedule of the 2008 Skansie Ad-Hoc Committee established under Resolution No. 739 to authorize two additional meetings on June 3rd 2008 and June 17th 2008.

Dept. Origin: Administration

Prepared by: Rob Karlinsey

For Agenda of: May 27, 2008

Initial & Date

Concurred by Mayor: CLK 5/14
Approved by City Administrator: ROK 5/14
Approved as to form by City Atty: CAM 5/13/08
Approved by Finance Director:
Approved by Department Head:

Table with 4 columns: Expenditure Required, Amount Budgeted, Appropriation Required, and dollar amounts (\$0).

INFORMATION / BACKGROUND

The 2008 Skansie Brother's Park Ad-Hoc Committee, as evident by John Moist's appearance before the City Council on May 12th 2008, has requested an extension of the Committee's meeting schedule in order complete the site elements review process and finalize their recommendation.

FISCAL CONSIDERATION

None

RECOMMENDATION / MOTION

Move to: Amend the meeting schedule of the 2008 Skansie Ad-Hoc Committee established under Resolution No. 739 to authorize two additional meetings on June 3rd 2008 and June 17th 2008.

RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF GIG HARBOR, WASHINGTON TO AMEND THE MEETING SCHEDULE OF THE 2008 SKANSIE AD-HOC COMMITTEE ESTABLISHED UNDER RESOLUTION NO. 739 TO AUTHORIZE TWO ADDITIONAL MEETINGS ON JUNE 3RD AND JUNE 17TH.

WHEREAS, the City of Gig Harbor established the 2008 Skansie Ad Hoc Committee in order to facilitate community input and ideas for Skansie Brother's Park; and

WHEREAS, the Skansie Ad Hoc Committee members requested additional time for the purpose of completing the site elements review process and finalizing their recommendation; and

WHEREAS, the Gig Harbor City Council approves the addition of two meetings to the Committee's schedule to be held on June 3rd, 2008 and June 17th, 2008;

NOW, THEREFORE, THE GIG HARBOR CITY COUNCIL HEREBY AMENDS RESOLUTION NUMBER 739 AND AUTHORIZES THE ADDITION OF TWO MEETINGS TO THE 2008 SKANSIE AD HOC COMMITTEE'S SCHEDULE ON JUNE 3RD, 2008 AND JUNE 17TH, 2008. THE COMMITTEE SHALL REPORT BACK TO THE CITY COUNCIL IN THE MONTH OF AUGUST 2008 WITH THEIR FINDINGS AND RECOMMENDATIONS.

APPROVED:

CHUCK HUNTER, MAYOR

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 01/22/08
PASSED BY THE CITY COUNCIL: 01/28/08
RESOLUTION NO. 739



Subject: Pierce County GIS Network Agreement & Agreement for Development of Quickview Mapping Services.

Proposed Council Action:

Authorize the Mayor to execute two Pierce County G.I.S. contract(s) in an amount not exceeding:

Dept. Origin: Finance – I.T.
Prepared by: Kay J. Johnson
For Agenda of: May 27, 2008
Exhibits:

Initial & Date

Concurred by Mayor: CLH 5/14/08
Approved by City Administrator: RDK 5/14/08
Approved as to form by City Atty: CAMA 5/19/08
Approved by Finance Director: [Signature] 5/19/08
Approved by Department Head: [Signature]

Expenditure	Amount	Appropriation	
Required	\$46,010.00	Budgeted	\$50,500.00
		Required	\$0

INFORMATION / BACKGROUND

This is an agreement providing services by and between the City of Gig Harbor and Pierce County G.I.S. The agreement for services is for a period of 4 years (renewed annually for 4 – 1 year terms) unless either party gives written notice of non-renewal not less than sixty days prior to the expiration of any one year term.

Currently the city has been operating out of contract since 2004. In order to continue G.I.S. services and to modify those services to allow for expansion of user access to Pierce County G.I.S. services, (such as for Police, Administration and Finance), the city needs to be brought into compliance with the attached contractual agreement(s).

The first agreement is a Pierce County Community Information/Network services contract for access to county system(s). This contract pertains to the networking and platform services for Pierce County G.I.S. and is the current service the city has been utilizing and paying for presently and in the past.

The second agreement is a Pierce County Quickview Internet Mapping Service contract which the city would like to employ to: a) reduce costs for current G.I.S. user licensing and, b) allow for expansion of our user base, for departments requiring enhanced access to G.I.S. data/maps/tools/services on a larger scale at a substantially reduced cost (up to 60 users with no additional licensing cost). The City currently has 21 users and needs to add several more rather quickly.

FISCAL CONSIDERATION

G.I.S. is an annual budgetary expenditure (the Pierce County Network Services Agreement). The city is also requesting participation and enrollment in the Quickview Internet Mapping plan for services to expand usage for additional employees across multiple departments for no additional licensing costs. Additionally, Community Development has several users willing to sign-up to Quickview, and opt out of their current single licensing plan. This will further help to reduce costs annually.

BOARD OR COMMITTEE RECOMMENDATION

Authorize the Mayor to execute two Pierce County G.I.S. contract(s):

- 1) Pierce County Community Information/Network Services Agreement for Access to County Systems.
- 2) Agreement for Development/Maintenance of the Quikview Internet Mapping Service.

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to sign associated agreements.

April 24, 2008

City of Gig Harbor
3510 Grandview St
Gig Harbor, WA 98335-1221
ATTN: Kay Truitt

Kay –

Here is the Community Services Agreement (GIS and all other services), as well as the QuickView contract. There are three copies of each, and I have indicated where all the signatures/dates need to be filled in. Please have all three copies completely filled out, and then return them all to me for routing and signature here. When they are fully executed we will return one copy back to you.

When the QuickView contract is executed we can begin the planning for that application design. Are you planning on Willy leading that effort? I have somewhat assumed that was the case, but wanted to clarify that with you. As soon as I have a lead defined at your end I will call a meeting and get started.

Thanks for your coordination efforts.

Sincerely



Brandy Riche
Pierce County GIS Subscription Coordinator

AGREEMENT FOR ON-LINE ACCESS TO COUNTY INFORMATION SYSTEMS

The terms of this Agreement will remain in full force and effect for a five (5) year period ending on April 27, 20 13, subject to thirty (30) days written notice of termination by either party to the other.

The parties, in consideration of the terms and conditions described below, agree as follows:

SCOPE OF SERVICE

- 1) The **County** agrees to provide the services described in Exhibit A (referred to as Service) according to the terms of this agreement. **Requestor** agrees to provide access to and use of the Service and all other resources necessary to use the Service under this agreement.

FEE FOR SERVICE

- 2) **Requestor** agrees to pay for the services in accordance with the rates or charges set forth in Exhibit A(s). The **County** will notify the **Requestor** 30 days in advance, in writing, of annual service rate changes. The **County** will bill the **Requestor** with terms of net cash, payable within thirty (30) days after the statement date. **Requestor** shall pay all applicable taxes related to use of the Service by **Requestor**. Non-payment for Services shall result in the termination of the Services.

CONDITIONS OF USE

- 3) **Requestor** represents and agrees that the **County** information and systems will not be used for commercial purposes contrary to the requirements of **RCW 42.56.070(9)** and **WAC 390-13-010**
- 4) **Requestor** agrees not to use the Service nor any of its elements or related facilities or capabilities to conduct any business or activity, or solicit the performance of any activity, which is prohibited by or would violate any applicable law, rule, regulation or legal obligation.
- 5) The parties agree that should **Requestor** use this Service in a manner contrary to the terms of this Agreement, **Requestor** will be ineligible to receive any similar service in the future and **Requestor** will be subject to all applicable civil and criminal penalties. Misuse or damage of service components or County data could result in billable charges for actual damages.
- 6) The **Requestor**, its officers and employees, will:

- a) Maintain the confidentiality of **County** information.
- b) Comply with **Pierce County Data Dissemination Disclaimer** (Exhibit C) and refrain from releasing or providing Pierce County digital data to other persons or entities (secondary data dissemination). Since this County Policy is based on RCW(s) and ordinances, changes may be made annually and will be provided at the same time as the annual service rates (as stated in Section 2).
- c) Maintain the proprietary nature of Pierce County software, digital data and systems used by the **Requestor** under the terms of this Agreement.

These conditions shall be met except upon the prior written consent of the steward County department and the Pierce County Prosecuting Attorney, or an order entered by a court after having acquired jurisdiction over the **County**.

- 7) **Requestor** will immediately give to the **County** notice of any judicial proceeding seeking disclosure of **County** information by contacting the Pierce County Prosecuting Attorney's Office.
- 8) **Requestor** agrees not to transmit, upload, post or otherwise publish on or over the Service, and not seek on or over the Service, any software, file, information, communication or other content:
 - a) which violates or infringes upon the rights of any other;
 - b) which, under the circumstances and in **County's** good faith judgment, is, or is likely to be perceived by an intended recipient or target as, defamatory, deceptive, misleading or abusive;
 - c) which constitutes a threat to, harassment of, or stalking of another;
 - d) which adversely affects the performance or availability of the Service or County resources;
 - e) which contains any virus, worm, harmful component or corrupted data; or
 - f) which, without the approval of the **County**, contains any advertising, promotion or solicitation of goods or services for commercial purposes.
 - g) which allows unauthorized access to **County** data and systems.
- 9) Subject to the terms of this Agreement, the **County** grants to **Requestor** and authorized users a personal, non-exclusive, nonassignable and nontransferable license to use and display the software (referred to as Software) provided by or on behalf of **County** for purposes of accessing the Service on

any machine(s) of which **Requestor** is the primary user or which **Requestor** is authorized for use. Unauthorized copying of the Software, including software that has been modified, merged or included with the Software, or the associated written materials is prohibited. **Requestor** may not sublicense, assign or transfer this license or the Software except as permitted by **County**.

LIABILITY

- 10) The information or services supplied by the **County** pursuant to this Agreement is provided on an “as is basis” and “with all faults” and **Requestor** will have no remedy at law or equity against the **County** in the event information provided to the **Requestor** is inaccurate, incomplete or otherwise defective in any way.
- 11) The **Requestor** agrees to defend, indemnify and save harmless the **County** and its officers and employees from any and all claims, liability and judgments, including attorney fees and costs, made by or accruing to any person as a result of the **Requestor's** conduct relating to this agreement, and the **County** agrees to defend, indemnify and save harmless the **Requestor** and its officers and employees from any and all claims, liability and judgments, including attorney fees and costs, made by or accruing to any person as a result of the **County's** conduct relating to this agreement. There are no third party rights created by this agreement.

SYSTEM OPERATIONS

- 12) The **County** retains the right to modify current systems at its discretion. The **County** will make no systems modifications on **Requestors'** behalf unless specifically detailed in Exhibit A. The **Requestor** is responsible for ascertaining the impact of changes on their business.
- 13) **Requestor** agrees that each and every person given the right to access **County** systems-will use a unique user name assigned by Pierce County Information Technology staff. Each user will sign the most current system and security agreement(s) (Exhibit B) and return to Pierce County Information Technology Department with written request for security access.
- 14) **Requestor** understands that priority is assigned to regular **County** work which may require a reasonable delay in responding to **Requestors'** requirements from time to time. The **County** shall not be held liable for service interruptions.

- 15) **Requestor** is to provide and maintain all required service components necessary to connect to **County** services in the manner authorized by the **County**.
- 16) **Requestor** is to ensure that all equipment and software used to access the Pierce County systems defined in Exhibit A, will be compatible with existing **County** configurations.
- 17) **Requestor** agrees to keep the **County** informed of any network connectivity between **Requestor** and other organizations.
- 18) **Requestor** understands and agrees that on-line access will be available only between the hours of 8:00 a.m. and 5:00 p.m. Pacific Time, Monday through Friday, exclusive of legal holidays observed by the **County**. Limited on-line access may be available outside of these hours. The **County** shall not be held liable if the system/network is off-line and not accessible.

CONTACTS

- 19) The **County** will provide a list of contacts to administer the Services provided under this agreement.
- 20) **Requestor** will provide the names of at least two (2) of their employees who will be the primary contacts with Pierce County staff. Requests for new users, user modifications or user assistance will come from these contacts. A method of verification will be provided to these employees to use when identifying themselves to Pierce County.
- 21) **Requestor** is to contact the **County** and request deletion of a staff's user name within 24 hours following notice of termination of their employment with the **Requestor**.

SPECIAL PROVISIONS

- 22) Special provisions are listed in Exhibit D.

ATTACHMENT 1 Definitions

1. Service
Service or Services is defined as this contract between the Requestor and the County to provide the work products described in Exhibit A, Scope of Services.
2. Annual Service Rates
The fees and charges for the Service(s) from the County that will be reviewed and adjusted yearly as described in Exhibit A, Scope of Services.
3. Commercial Purposes
See Exhibit C.
4. Steward Departments
One, or in some cases multiple, County departments are designated as the steward of each particular named computer system and its corresponding set of information media (data files, databases, screens, views, reports, menus, and query access). As such, steward departments have the authority to determine data access methods, the dissemination mechanism and secondary data dissemination rules (primary data dissemination rules are specified in a separate County policy statement) for any request to access such systems and information media. In order to execute this authority, steward departments are responsible for the maintenance of security, accuracy, and integrity of the computer systems and information media.
5. Data
“Data” is defined as information of an electronic or digital format as in diskettes, electronic file attachments, Zip disks, file transfer protocol (FTP), CD’s, R/W disks, and any electronic medium such as digital tape.
6. Document
“Document” is defined as hard copy work product information from the service, including, but not limited to letters, words, pictures, symbols, maps, or any combination thereof. “Document” does not include any “Data” as defined above.

EXHIBIT A
SCOPE OF SERVICES

Exhibit A - On-Line Services from Pierce County

Requestor: City of Gig Harbor	Contract #: 60253	Calendar Year Rates Shown: 2008
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System Name: Pierce County Wide Area Network
Description of System: The computing infrastructure of Pierce County. Connecting to this via secure, approved methods will allow access to systems where steward approval has been obtained.
Steward: Information Technology Dept.

Services		Charges
<p>All services listed are offered but may not be applicable. This will depend upon the connection Requestor and Pierce County Information Technology Dept. Specialist determine is best for the application.</p> <p>Information Technology Dept. will set up accounts with passwords for a list of users provided by the Requestor for each system included in this Exhibit A.</p> <p>Included in the one-time router setup fee is up to 4 hours of initial configuration consultation to discuss your hookup options and to review your proposed connectivity equipment order. Information Technology Dept. time spent connecting your telecommunications line at our router end and any associated troubleshooting will be charged at our hourly personnel rate¹ in 15 minute increments.</p>	Information Technology Dept. charges:	<p>1) User account setup is included as part of monthly user fees (see on-going charges).</p> <p>2) \$2,500 per router port for LAN connection to Pierce County router. Requestor pays for all equipment needed to connect to router port.</p>
Training:	No training offered.	Information Technology Dept. charges: N/A
Ongoing Charges:	The Wide Area Network monthly charge is a utilization fee charged to all users on the network that pays for resources necessary to maintain and enhance the network. Information Technology Dept. will set up accounts	<p>1) Wide Area Network charge of \$12.20 per external user per month². Service Desk level one connectivity phone support and account setup/deletion included in this monthly charge.</p> <p>2) Additional Wide Area Network connection fee of \$12.20 per</p>

	<p>with passwords for any new users for each system included in this Exhibit A.</p> <p>Service Desk level one connectivity phone support.</p> <p>Direct services specifically outlined in this exhibit A are:</p> <ul style="list-style-type: none"> ➤ Configuration and connectivity assistance ➤ Desktop and Network Support for County supported products 		<p>user per month² for all users connecting via the Internet.</p> <p>3) Direct services outlined in this contract will be charged at our personnel rate of \$83.00 per hour¹ in 15 minute increments.</p> <p>4) \$500 annual maintenance per router port connection to Pierce County router (prorated first year)</p>
<p>Other:</p>	<p>Communications Links:</p>	<p>Requestor agrees to pay all installation and monthly telecommunications charges for lines used to access Pierce County.</p>	
	<p>Security:</p>	<p><u>Remote Access Authorization:</u> Requestor agrees to use remote authentication keyfob for each unique user accessing Pierce County when outside of the county's infrastructure. User keyfobs will be returned to Pierce County within 15 days of termination of their account access. A fee equivalent to the current cost of purchasing a keyfob will be charged to the contracting agency to replace any lost keyfobs.</p> <p><u>Encryption:</u> Requestor agrees to purchase and use any encryption software required by Pierce County to access specific systems. If necessary, requestor agrees to upgrade operating systems on PC's needing the encryption software in order to comply with encryption software requirements.</p>	

¹ Hourly rate to be used will be the Information Technology Dept. personnel hourly rate which changes each calendar year. 2008 is \$83.00.

² Monthly rate to be used will be the Monthly User Fee for Pierce County which changes each calendar year. 2008 rate is \$12.20 per user per month.

Access by the Requestor to the above system at the calendar year rates shown is approved by:

Pierce County Information Technology Dept. Director _____ Date _____

Pierce County IT Operations Manager _____ Date _____

Requestor _____ Date _____

Exhibit A - On-Line Services from Pierce County

Requestor: City of Gig Harbor	Contract #: 60253	Calendar Year Rates Shown: 2008
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System Name: OZX
Description of System: Extranet Web Server
Steward: Information Technology Dept. – Software Development Division

Services	Charges
One-time setup: None - Web browser is used to access.	Information Technology Dept. charges: N/A
Training: No Training Offered.	Information Technology Dept. charges: N/A
Ongoing Charges: Direct services specifically outlined in this exhibit A are: Software Development support, configuration and connectivity assistance.	Information Technology Dept. charges: Direct services outlined in this contract will be charged at the IT personnel rate of \$96.00 per hour ¹ in 15 minute increments.
Other:	N/A

¹ Hourly rate to be used will be the Information Technology Dept. Software Development personnel hourly rate which changes each calendar year. 2008 is \$96.00.

Access by the Requestor to the above system at the calendar year rates shown is approved by:

Pierce County Information Technology Dept. Director _____ Date _____

Pierce County Software Development Manager _____ Date _____

Requestor _____ Date _____

Exhibit A - On-Line Services from Pierce County

Requestor: City of Gig Harbor	Contract #: 60253	Calendar Year Rates Shown: 2008
--------------------------------------	--------------------------	--

System Name: CountyView Suite - Pierce County's Subscription GIS system
Description of System: The CountyView suite of applications allows users to access production GIS data in Pierce County. The system provides users with the ability to display themes of data, perform search and locate, query associated tabular data, perform spatial analysis, and utilize customized County GIS functionality.
Steward: Information Technology Department / GIS Division

Services		Charges
Use of CVWeb and CVPro	CountyView applications have been in production since 1998 at Pierce County. The CountyView suite of software has been customized and optimized for local government business functions and includes data management for over 800 themes of data, owner-notify tools, locate function, and quick map production. CVWeb is a web-based application that contains efficient searching, viewing, reporting and basic mapping functionality. Simple data creation tools are provided. Clients are responsible for ensuring the functionality in CVWeb will meet their business needs. CVPro is based on ESRI's ArcGIS and includes advanced functionality such as spatial analysis, customized mapping, attribute and feature editing, and data conversion tools.	CVWeb = \$1,248/ea/yr CVPro = \$3,640/ea/yr (only available for Public agencies at this time) Total based on options and number of users
GIS Hardware	To connect to Pierce County's CVWeb application, the agency will share the use of a clustered GIS internet server with other agencies. CVPro users will connect to an internal ArcGIS server that is also shared between the online agencies and will have access to the extensions and customized tools that Pierce County has acquired or designed. For either application, the servers will be equipped with the necessary software licenses to serve the users' needs. The user's login/password must be protected to keep use at acceptable levels of performance	No extra fee Included
CVWeb and CVPro Agency Support	Analyst assistance for up to a maximum of 180 hours/yr/agency for all GIS applications. Support includes: - on-call phone support, technical advice, and troubleshooting related to the CV application during regular County business hours - training on advanced functionality within the CV application - monthly onsite user meetings if requested Note: Free training and materials are provided for each licensed user on CVWeb (4 hr class-not deducted from support hours). Users must be familiar with the Windows environment. For CVPro access, "Introduction to ArcGIS 10" certification is required. Pierce County can provide training at a cost of \$150 per each CVPro user for materials which is charged separately upon completion of training. Other training options exist and can be discussed.	CVWeb = 12 hrs/ea/yr CVPro = 20 hrs/ea/yr (up to a maximum of 180 hrs/yr/agency for all applications) ¹ Included
	The ongoing maintenance of the CountyView applications require certifying the software on	

CountyView Maintenance	new platform releases, maintaining data sets, loading data sets into the CountyView suite, making enhancements to the system, and adding applications and extensions. Enhancements are in response to user requirements and each agency will have input in this process as well.	No extra fee	Included
The GIS Community Service	The growing GIS community in Pierce County can leverage each other's expertise to optimize the use of GIS. Pierce County GIS will facilitate this sharing of information and data by: -conducting Project meetings as necessary to discuss GIS applications and projects. This meeting is intended for managers and staff to learn about benefits and uses of GIS. -conducting Technical meetings as necessary to discuss technical and quality questions. This meeting is intended for hands-on technical users who have software questions. -prepare the GIS Bulletin which describes the GIS projects in the County, the status of GIS data conversion, notes from the Project meetings and training schedules.	No extra fee	Included
Ortho Partner	Includes access to all available digital orthophotos (current and historic), impervious surface planimetrics derived from orthos, lidar-based contours, and other layers derived from orthos under this license.	\$1,000/user/yr up to a maximum of \$7,500/agency/yr (if one user needs orthos, all users must have access – managed at agency level only)	Cost based on number of users up to maximum fee of \$7,500 per agency

¹ Hours exceeding this amount will be billed at the Information Technology/GIS personnel hourly rate which changes each calendar year. (2008 rate is \$83/hr).

Agency support and CountyView maintenance rates are subject to yearly adjustment. Access by the Requestor to the above system at the calendar year rates shown is approved by:

Pierce County Information Technology Dept. Director _____ Date _____

Pierce County GIS Manager _____ Date _____

Requestor _____ Date _____

Exhibit A - On-Line Services from Pierce County

Requestor:	City of Gig Harbor	Contract #:	60253	Calendar Year Rates Shown:	2008
-------------------	--------------------	--------------------	-------	-----------------------------------	------

System Name:	CICS access to FIN				
Description of System:	Pierce County Financial System.				
Steward:	Budget and Finance Department				

Services	Charges	
One-time setup:	Not available	Steward charges: N/A
Training:	Not available	Steward charges: N/A
Ongoing Charges:		Steward charges: None
Other:	Additional services agreed to but not specified above will be billed on a time and materials basis.	

Access by the Requestor to the above system is approved by:

For Steward: Budget and Finance _____ Date _____

Pierce County Information Technology Dept. Director _____ Date _____

Requestor _____ Date _____

**PIERCE COUNTY COMPUTER NETWORK AND INFORMATION
SECURITY ACCESS AGREEMENT**
for Employees, Contractors, Volunteers and External Agency Employees.

Access to the Pierce County Network has been provided to you so you may complete specific activities related to your job duties or contractor agreement. Any use beyond what is agreed upon and described in your duties/contract is not allowed. Security will be in place to limit your activities on the network. By signing this agreement, you state that you will not attempt to access information or services not meant to be available to you on the Pierce County network as described in your assigned duties.

You also agree to safeguard any passwords provided to you to access Pierce County systems. You must configure your access to the Pierce County network so that a password must be typed in each time you access the system(s). You cannot share this password with any one else. Log out of Pierce County systems whenever you cease working on the system or whenever you are away from your computer.

You are responsible for any damage caused by actions you take in relation to the Pierce County network that are outside of those described in your duties/contract.

You are to use the utmost discretion in preserving the confidential nature of any information you are authorized to access. Information is to be obtained for authorized purposes ONLY. Obtaining any information for personal use is prohibited; this includes looking up information in any of the computer databases for personal use. As an employee or contractor you may not observe, obtain, nor ask another person to obtain confidential information for personal reasons. "Confidential information" includes (1) information that has been obtained under governmental authority and which is prohibited by law from being disclosed to the public, as well as (2) information which Pierce County or its agencies, officers or agents have a legal duty and/or privilege not to disclose or which is otherwise not available to the public. You shall not disclose confidential information without County authorization. Releasing information may be in violation of the laws of the State of Washington, for example a violation of the provisions of the Criminal History Privacy Act (RCW 10.97) shall constitute a misdemeanor and may result in criminal prosecution. When in doubt, be discreet, and talk with your Pierce County supervisor/contact. It is better to err on the side of caution than on the side of carelessness. County employees must adhere to County policies.

I have read and understand the above policy regarding computer network access and confidential information and have received copy of same

Agency/Employer Name: _____

Employee/Contractor Information:

First Name:																			Middle Initial:		
Last Name:																					
Office Phone:				-																Ext:	
Email Address:																					

Date: _____ Employee/Contractor Signature: _____

Date: _____	Pierce County Authorizing Signature: _____
<i>(Please route to ITSystemAdmin, IT-Merit 3rd Floor after authorizing signature obtained)</i>	
Information Technology Internal Use Only:	
_____	_____
Keyfob #	Login Name Assigned
_____	Systems Accessed

EXHIBIT C

DISCLAIMERS TO and WARRANTY BY USERS of PIERCE COUNTY AND/OR GIS DATA

1. Limitations and Pierce County Data Dissemination Disclaimer

Requestor seeks access to the data described in "Exhibit A". The County makes no warranty, express or implied, concerning the data's content, accuracy, currency or completeness, or concerning the results to be obtained from queries or use of the data. ALL DATA IS EXPRESSLY PROVIDED "AS IS" AND "WITH ALL FAULTS". The County makes no warranty of fitness for a particular purpose, and no representation as to the quality of any data. Users of data are responsible for ensuring the accuracy, currency and other qualities of all products (including maps, reports, displays and analysis) produced from or in connection with Pierce County's data. No employee or agent of Pierce County is authorized to waive or modify this paragraph. If a user informs others that a product is based upon Pierce County's data, the County specifically requests and directs that the user also disclose the limitations contained in this paragraph and in paragraph 4.

2. Data Interpretation

Pierce County data is developed and maintained solely for County business functions, and use or interpretation of data by the Requestor or others is the solely their responsibility. The County does not provide data interpretation services.

3. Spatial Accuracy

Map data can be plotted or represented at various scales other than the original source of the data. The Requestor is responsible for adhering to industry standard mapping practices, which specify that data utilized in a map or analysis, separately or in combination with other data, will be produced at the largest scale common to all data sets. For example: if the zoning data scale is 1"=200' and the city boundary data set is 1"=2000', the data sets should be used at a scale of 1"=2000' or smaller.

4. Liability

Each party shall not be liable to the other (or transferees or vendees of either party) for damages of any kind, including lost profits, lost savings or any other incidental or consequential damages relating to the providing of the data or the use of it. Each party shall have no remedy at law or equity against the other in case the data provided is inaccurate, incomplete or otherwise defective in any way.

5. Requestor's Warranty Against Commercial Use of Lists

RCW 42.56.070(9) prohibits the release of lists of individuals requested for commercial purposes, and Requestor expressly represents that no such use of any such list will be made by Requestor or its transferee(s) or vendee(s). "Commercial purposes" means contacting or in some way personally affecting the individuals identified on the list with the purpose of facilitating one's commercial activities.

6. Project Data

Requestors are encouraged to supply their project data back to the County for use by the County.

7. Data Shift

The County will be shifting GIS data to improve the geographic accuracy. Any data the requestor builds on top of the County data may require adjustment. The Requestor assumes responsibility for aligning and registering data to the County data, if necessary.

Requestor: _____ Authorized Agent: _____ Date: _____

EXHIBIT D

SPECIAL PROVISIONS

Network Security

In an attempt to prevent the loss of information/data and to minimize the costly effects of network/system security attacks on system maintenance and network downtime, the County reserves the right to terminate, immediately and without notice, Requestor connection(s) to County resources if it appears that Requestor's continued connection to County systems may be harmful (for example, virus, worm or network security attacks) to either County or Requestor. Connection will not be reinstated until County determines that such threat no longer exists.

Reasonable care will be taken to re-establish connection to the Requestor within a reasonable time. By accessing the County system, Requestor acknowledges the right and discretion of County to terminate Requestor's connection(s) in the event of a network security threat and agrees that County will not be liable to Requestor for interruption of business or in any other fashion in regard to any such termination or failure to terminate. If County staff must provide assistance to Requestor to ensure Requestor's systems are free from harmful threats, charges will be assessed as described in Exhibit A attached.

"Conditions of Use," Section 6

"Secondary data dissemination" does not include the Requestor's disclosure of documents printed from the service. The Requestor agrees to immediately notify the County as provided in Section 6 of the Agreement when the Requestor receives a request for the County's digital data. If the Requestor promptly transmits such a request to the County, the County agrees to respond within the deadline in RCW 42.56.520. The Requestor shall not be required to defend the County concerning the County's refusal to disclose any data.

If the Requestor receives a request for a document(s) printed from the service, the Requestor shall make a decision whether such document(s) is exempt from disclosure and process the request accordingly. The County need not be contacted in those instances where a request is made for a document(s) only.

**AGREEMENT # 60254 FOR DEVELOPMENT/MAINTENANCE OF THE
QUICKVIEW INTERNET MAPPING SERVICE
Between Pierce County
and the
City of Gig Harbor**

This Agreement provides for service by and between the City of Gig Harbor, hereinafter called **Subscriber** and Pierce County, hereinafter called **County**. The initial term of this Agreement shall commence on the 28th day of April, 2008, and shall, unless terminated or renewed elsewhere in the Agreement, terminate on the 27th day of April, 2013. This Agreement shall be renewed annually for four (4) one year terms, unless either party gives written notice of non-renewal not less than sixty (60) days prior to the expiration of any one year term.

WHEREAS the Subscriber has access to the County's GIS; and

WHEREAS Subscriber requires a simple to use GIS web application to query, report and map the County's and Subscriber's GIS data; and

WHEREAS the County has similar web applications already developed for similar purposes; and

NOW WHEREFORE, the Subscriber and the County mutually agree as set forth below:

Service Description:

The County will provide:

1. A customized version of the County's web-based QuickView application. The application's specific functionality and user interface design are shown in Exhibit 1.
2. Access to the application based on user name and password which will limit use to those staff with valid log-in.
3. Data security: QuickView's software architecture is a three-tiered system which secures the databases and data files behind the County's firewall.
4. Access to Pierce County data sets (not other subscribers such as cities, without written approval from the subscriber/city). Orthophotography and contours are excluded unless the Subscriber participates in the Pierce County Orthophotography Program.
5. The QuickView website hardware and software to host the application for the Subscriber.
6. Support for the QuickView application during regular County business hours 7 am to 4 pm, Monday-Friday (24/7 availability not guaranteed).
7. Training on system use for 10 users, some of which would become on-site trainers at the subscribing agency for QuickView.

The Subscriber will provide:

8. A single point of contact for coordinating the implementation of QuickView and for managing users subsequent to implementation.
9. A list of the data to be included in the menu system. This includes one list of up to 40 data layers OR up to 4 separate data categories limited to 15 data sets each. For each of the datasets a list of the data/attributes to be reported in the Details page will be needed.
10. Maintenance of the GIS data that the Subscriber contributes to the application in format usable by the QuickView application.
11. The hardware and network (Internet) systems needed to use the application from the Subscriber's agency.

Subscription Terms of Use:

13. The Subscriber agrees that each and every person given the right to access the QuickView application will use a unique user name and password.
14. The QuickView application shall be used by the Subscriber's employees only and shall not be provided to the public or any third party.
15. The QuickView subscription includes 60 unique logins per QuickView application. Concurrent logins should not exceed 20 concurrent users at a time.
16. Subscriber employees using the QuickView system are required to sign the Pierce County GIS Enterprise and Data Access Agreement and abide by the terms (Exhibit 2).
17. The "use" of the QuickView application is in effect beginning at the date of this agreement and ending at the date of termination of this agreement.
18. The County retains the right to modify current systems at its discretion. The County will make no systems modifications on Subscriber's behalf unless specifically agreed to.
19. The Subscriber understands that priority is assigned to County work which may require a reasonable delay in responding to the Subscriber's requirements. The County shall not be held liable for service interruptions.
20. Subject to the terms of this Agreement, the County grants to Subscriber and authorized users a personal, non-exclusive, nonassignable and nontransferable license to use and display the software (referred to as Software) provided by or on behalf of County for purposes of accessing the Service on any machine(s) of which Subscriber is the primary user or which Subscriber is authorized for use. Unauthorized copying of the Software, including software that has been modified, merged or included with the Software, or the associated written materials is prohibited. Subscriber may not sublicense, assign or transfer this license or the Software except as permitted by County.

Defense and Indemnification Agreement:

21. The system and database supplied by the County pursuant to this Agreement is provided on an “AS IS BASIS” and “WITH ALL FAULTS” and the Subscriber will have no remedy at law or equity against the County in the event information provided to the Subscriber is inaccurate, incomplete or otherwise defective in any way. The Subscriber agrees to defend, indemnify and save harmless the County and its officers and employees from any and all claims, liability and judgments, including attorney fees and costs, made by or accruing to any person as a result of the Subscriber's conduct relating to this agreement, and the County agrees to defend, indemnify and save harmless the Subscriber and its officers and employees from any and all claims, liability and judgments, including attorney fees and costs, made by or accruing to any person as a result of the County's conduct relating to this agreement. There are no third party rights created by this agreement.

Subscription Fees:

22. The subscription fees for QuickView are the following:

- a. Initial customization (24 hours), installation and training: \$5,000
- b. Yearly subscription fee includes regular hardware and software maintenance and 20 hours of support per year \$4,000
- c. Cost for additional users beyond 20 concurrent users (based on information acquired during application tracking) \$100/user/year

23. The subscription fee includes 24 hours of initial software/data customization. This service includes loading specific data layers and modifying software to generate the details page as defined by the Subscriber.

24. The yearly subscription fee includes regular hardware and software upgrades and up to 20 hours of developer time for data customizations. The available hours should be phased carefully to include all required customizations or updates that may be necessary over a year. Yearly cost adjustments for subscription will not exceed 4% for standard hardware and software maintenance.

25. If the number of users increases beyond the 20 concurrent users which causes a slow system performance, additional hardware will be procured to maintain system performance. The additional hardware cost for this upgrade will be prorated to all users. If the software system requires upgrading or license fees are increased by third party vendors (ESRI) these additional software costs will be prorated to all users. The Subscriber will be notified of these upgrades. These upgrades will be included in the next year’s subscription costs and may be above the 4%.

26. The County will notify Subscriber of any changes in fees for the succeeding year by November 15th of the current year. Subscriber may terminate this agreement by giving County written notice to terminate as of December 31st of the then current calendar year. Upon termination and to the extent of lawfully available funds, Subscriber shall remit all amounts due through the date of termination. Fees for the new calendar year will be billed in January of each calendar year.

Future Non-Allocation of Funds:

27. Notwithstanding any other terms of this Agreement, if sufficient funds are not appropriated or allocated for payment under this contract for any future fiscal period, the Subscriber will not be obligated to make payment for services or amounts after the end of the fiscal period through which funds have been appropriated and allocated. No penalty or expense shall accrue to the Subscriber in the event this provision applies and services will be discontinued.

IN WITNESS WHEREOF, the parties have executed this Amendment on this ____ day of _____, 2008

CITY OF GIG HARBOR:

Name

Signature Date

Title

City Attorney Date
Approved as to legal form only

Mailing Address:

Street Address, if different:

Contact Name: _____

Phone: _____

Cell: _____

Fax: _____

PIERCE COUNTY:

Deputy Prosecuting Attorney Date
Approved as to legal form only

Recommended:

Budget and Finance Date

Approved:

Department Director Date
(less than \$250,000)

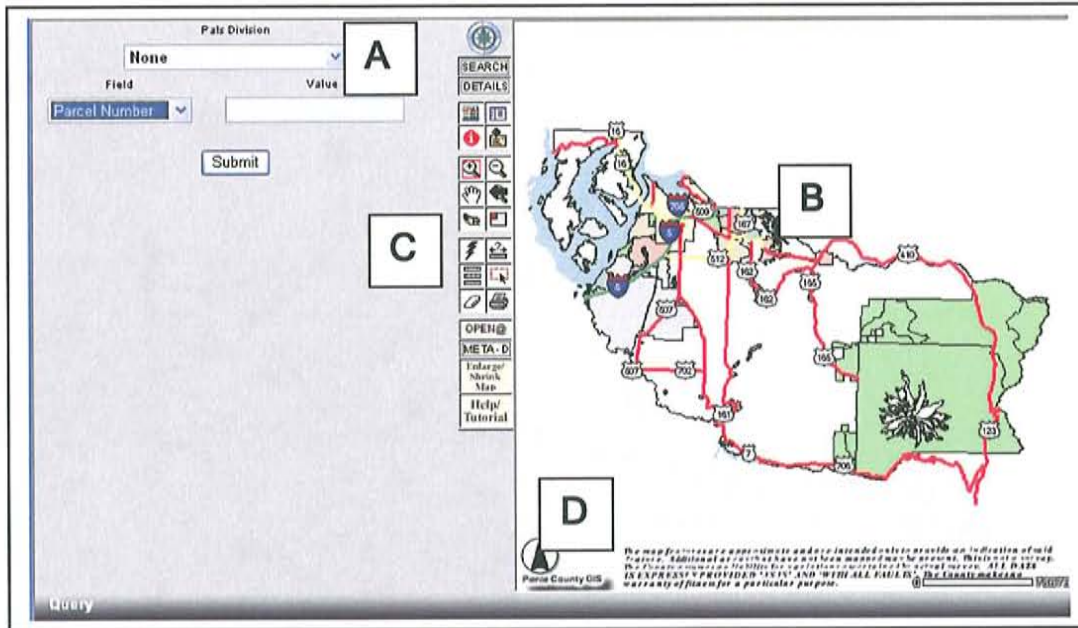
Pierce County Executive Date
(over \$250,000)

EXHIBIT 1: FUNCTIONAL DESCRIPTION OF THE QUICKVIEW APPLICATION

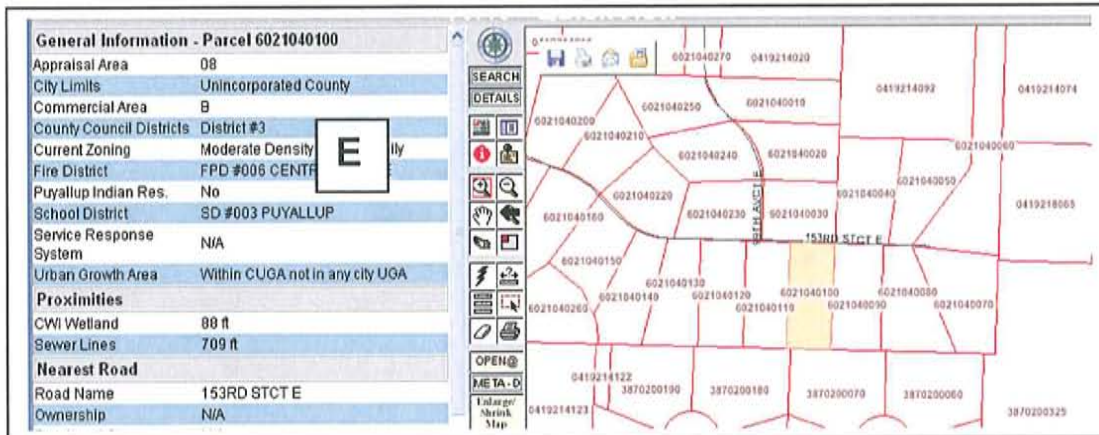
The Pierce County QuickView application is a web-based software system. The QuickView functions allow users to:

1. Query and find a location in the map display based on address, parcel owner, tax payer delivery address, parcel site address or RTSQ.
2. The query and location function is parcel based only. The system will list parcels that meet the search criteria. The user selects a parcel from the list and the software system functions are based on this parcel.
3. View user defined map data in the map display window (see B on the interface).
4. Users can define 1-4 data categories. (see A on interface) Multiple data views are chosen from a drop-down list.
5. The data menu for each category can contain 15 data layers or less
6. Perform the following GIS functions on the map display (see C on interface):
 - a. Choose data themes from a menu
 - b. View the map legend
 - c. Identify a feature (report on attributes)
 - d. Geo-code a point location based on address or intersection
 - e. Zoom-in and zoom-out of the map display (changes scale)
 - f. Pan map display
 - g. Go back to the previous map extent
 - h. Zoom to full extent of the map (county level)
 - i. Display overview map (location of map window in the county)
 - j. Hyperlink to documents associated with map features
 - k. Measure distances
 - l. Define units for distance measurements
 - m. Select a feature by rectangle
 - n. Erase feature
 - o. Print
 - p. Open @ external public GIS web sites
 - q. View meta data for features
 - r. Enlarge or shrink map display
 - s. Get help on QuickView
7. Display data disclaimers in the application and in the map view (see D on interface)
8. View a report detailing information about the selected location in the Details Screen (see E on interface). The Details report describes the existence of features for the specific parcel. Features not “crossing” or “intersecting” the parcel will not be reported.
Details general information can include up to 25 existing data sets (already defined in QuickView) and 5 client specific data sets. Details proximity information can include two existing data sets and one client specific data set
9. The Print Report function is designed to print a report of the details page, the map display, the legend and disclaimers. The report format cannot be changed.

QuickView User Interface



QuickView Details Screen



QuickView Printed Report

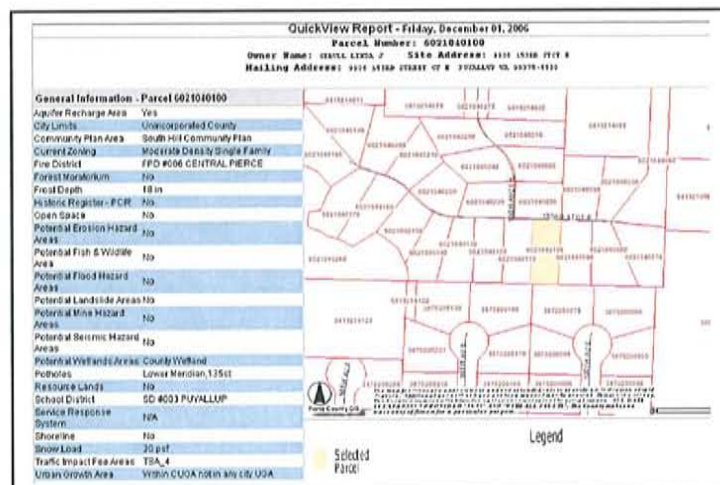


Exhibit 2 - Pierce County GIS Network and Data Access Agreement

1. Access to the Pierce County GIS network and data is being provided to you for use in specific activities related to your job duties. Any use beyond those duties is not permitted. All use is subject to the following conditions.
2. **Your login and password are specific to you and may not be shared with others.** You are responsible for safeguarding your login and password and for logging out of the Pierce County systems whenever you cease working or are away from your computer. Login activity may be monitored to detect multiple users on a single login.
3. **Users are responsible for data security.** You are responsible for maintaining the confidentiality of information within County data. "Confidential information" means information the release of which is prohibited by law, and information relating to individual personal privacy or which otherwise is exempt from public disclosure under RCW Ch. 42.56.
4. **Users are responsible for the integrity of data use and interpretation.** Users may not represent County data or business practices. Because you will have direct access to County GIS data you may be questioned about how the data relates to County business practices. The public or engineers or others should be directed to the County to answer questions about data, permits, zoning, assessments, utilities, the environment or any County business function. You will be responsible for any misrepresentations you make about the County data.
5. **Users are responsible for spatial data accuracy.** GIS data can be represented in a map at various scales other than the original source of the data. The user is responsible for adhering to industry standard mapping practices which specify that data utilized in a map or analysis, separately or in combination with other data, will be produced at the largest scale common to all data sets. Meta data about each County data set describes the accuracy, scale, source and restrictions of data use.
6. **Users may not secondarily disseminate any data.** Users may not provide copies of Pierce County GIS digital data to any person, agency or company. Users are permitted to make and distribute hardcopy maps of County data if the map contains (at a minimum) a legend, scale, date and proper disclaimers (see paragraph 8 below). Other parties interested in obtaining the digital data should be directed to submit a data request through the Pierce County GIS Data Express found on the Pierce County website, where they will then be directly and fully informed of the limitations and appropriate use of the digital data.
7. **Users may not provide lists of names.** RCW 42.56.070 prohibits the use of lists of individuals obtained from government agencies for commercial or profit-expecting activity.
8. The County makes no warranty, expressed or implied, concerning the data content, accuracy, currency or completeness, or concerning the results obtained from queries or use of the data. **ALL DATA IS EXPRESSLY PROVIDED "AS IS" AND "WITH ALL FAULTS"**. Users of any and all of the data (including the orthophotography) are responsible for ensuring the accuracy, currency, and other qualities of all products (including maps, reports, display and analysis) produced from or in connection with the Pierce County GIS Data. If a user of the data informs others that that product is based upon Pierce County Data, the County specifically directs the user to also disclose the terms of this paragraph to them verbatim. Pierce County shall not be liable for damages of any kind, including lost profits, lost savings, or any other incidental or consequential damages related to providing the data or the use of it.

I have read and understand the above policy regarding the use of the GIS network and data (which may be confidential and is regulated under several RCW's), and have received a copy of this document. I understand that failure to comply with these terms will result in termination of CountyView Web system use. Pre-paid fees will be forfeited and the County may seek legal redress against you personally and/or against your employer.

Agency/Employer Name: _____

Employee Name: _____

Employee Work Phone: _____ Employee Work email address: _____

Signature: _____ Date: _____

IT-GIS Use Only: Login Name Assigned: _____



Subject: Pierce County GIS Network Agreement & Agreement for Development of Quickview Mapping Services.

Dept. Origin: Finance – I.T.
Prepared by: Kay J. Johnson
For Agenda of: May 27, 2008
Exhibits:

Proposed Council Action:

Authorize the Mayor to execute two Pierce County G.I.S. contract(s) in an amount not exceeding:

Initial & Date

Concurred by Mayor: SLH 5/14/08
Approved by City Administrator: RDK 5/14/08
Approved as to form by City Atty: CAMA 5/19/08
Approved by Finance Director: [Signature] 5/19/08
Approved by Department Head: [Signature]

Expenditure	Amount	Appropriation
Required \$46,010.00	Budgeted \$50,500.00	Required \$0

INFORMATION / BACKGROUND

This is an agreement providing services by and between the City of Gig Harbor and Pierce County G.I.S. The agreement for services is for a period of 4 years (renewed annually for 4 – 1 year terms) unless either party gives written notice of non-renewal not less than sixty days prior to the expiration of any one year term.

Currently the city has been operating out of contract since 2004. In order to continue G.I.S. services and to modify those services to allow for expansion of user access to Pierce County G.I.S. services, (such as for Police, Administration and Finance), the city needs to be brought into compliance with the attached contractual agreement(s).

The first agreement is a Pierce County Community Information/Network services contract for access to county system(s). This contract pertains to the networking and platform services for Pierce County G.I.S. and is the current service the city has been utilizing and paying for presently and in the past.

The second agreement is a Pierce County Quickview Internet Mapping Service contract which the city would like to employ to: a) reduce costs for current G.I.S. user licensing and, b) allow for expansion of our user base, for departments requiring enhanced access to G.I.S. data/maps/tools/services on a larger scale at a substantially reduced cost (up to 60 users with no additional licensing cost). The City currently has 21 users and needs to add several more rather quickly.

FISCAL CONSIDERATION

G.I.S. is an annual budgetary expenditure (the Pierce County Network Services Agreement). The city is also requesting participation and enrollment in the Quickview Internet Mapping plan for services to expand usage for additional employees across multiple departments for no additional licensing costs. Additionally, Community Development has several users willing to sign-up to Quickview, and opt out of their current single licensing plan. This will further help to reduce costs annually.

BOARD OR COMMITTEE RECOMMENDATION

Authorize the Mayor to execute two Pierce County G.I.S. contract(s):

- 1) Pierce County Community Information/Network Services Agreement for Access to County Systems.
- 2) Agreement for Development/Maintenance of the Quikview Internet Mapping Service.

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to sign associated agreements.

April 24, 2008

City of Gig Harbor
3510 Grandview St
Gig Harbor, WA 98335-1221
ATTN: Kay Truitt

Kay –

Here is the Community Services Agreement (GIS and all other services), as well as the QuickView contract. There are three copies of each, and I have indicated where all the signatures/dates need to be filled in. Please have all three copies completely filled out, and then return them all to me for routing and signature here. When they are fully executed we will return one copy back to you.

When the QuickView contract is executed we can begin the planning for that application design. Are you planning on Willy leading that effort? I have somewhat assumed that was the case, but wanted to clarify that with you. As soon as I have a lead defined at your end I will call a meeting and get started.

Thanks for your coordination efforts.

Sincerely



Brandy Riche
Pierce County GIS Subscription Coordinator

**PIERCE COUNTY
COMMUNITY INFORMATION/NETWORK SERVICES AGREEMENT # 60253
FOR ACCESS TO COUNTY SYSTEMS**

City of Gig Harbor, hereinafter called **Requestor**, and Pierce County, hereinafter called **County**, agree as set forth in this Agreement, including:

(Agreement), pp. 1 to 5,
Attachment 1(Definitions), pp. 6,
Exhibit A (Scope of Services), pp. A1 to A4,
Exhibit B (Security Access Agreement), pp. B1,
Exhibit C (Disclaimers), pp. C1, and
Exhibit D (Special Provisions), pp. D1.

copies of which are attached hereto and incorporated herein by this reference as fully as if set forth herein.

The term of this Agreement shall commence on the 28th day of April, 20 08, and shall, unless terminated or renewed elsewhere in the Agreement, terminate on the 27th day of April, 2013.

This Agreement will be binding upon the **Requestor**, officers, agents and employees. The person(s) executing this Agreement on behalf of the **Requestor** are fully authorized to sign this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement this ___ day of _____, 20 ___.

REQUESTOR:

PIERCE COUNTY:

Name

Deputy Prosecuting Attorney Date
(Approved as to form only)

Signature

Recommended:

Title of Signatory

Address:

Budget and Finance Date

Mailing Address:

Approved:

Contact Name: _____

Department Director Date
(less than \$250,000)

Contact Phone: _____

or

Contact FAX: _____

Pierce County Executive Date
(\$250,000 or more)

AGREEMENT FOR ON-LINE ACCESS TO COUNTY INFORMATION SYSTEMS

The terms of this Agreement will remain in full force and effect for a five (5) year period ending on April 27, 20 13, subject to thirty (30) days written notice of termination by either party to the other.

The parties, in consideration of the terms and conditions described below, agree as follows:

SCOPE OF SERVICE

- 1) The **County** agrees to provide the services described in Exhibit A (referred to as Service) according to the terms of this agreement. **Requestor** agrees to provide access to and use of the Service and all other resources necessary to use the Service under this agreement.

FEE FOR SERVICE

- 2) **Requestor** agrees to pay for the services in accordance with the rates or charges set forth in Exhibit A(s). The **County** will notify the **Requestor** 30 days in advance, in writing, of annual service rate changes. The **County** will bill the **Requestor** with terms of net cash, payable within thirty (30) days after the statement date. **Requestor** shall pay all applicable taxes related to use of the Service by **Requestor**. Non-payment for Services shall result in the termination of the Services.

CONDITIONS OF USE

- 3) **Requestor** represents and agrees that the **County** information and systems will not be used for commercial purposes contrary to the requirements of **RCW 42.56.070(9)** and **WAC 390-13-010**
- 4) **Requestor** agrees not to use the Service nor any of its elements or related facilities or capabilities to conduct any business or activity, or solicit the performance of any activity, which is prohibited by or would violate any applicable law, rule, regulation or legal obligation.
- 5) The parties agree that should **Requestor** use this Service in a manner contrary to the terms of this Agreement, **Requestor** will be ineligible to receive any similar service in the future and **Requestor** will be subject to all applicable civil and criminal penalties. Misuse or damage of service components or County data could result in billable charges for actual damages.
- 6) The **Requestor**, its officers and employees, will:

- a) Maintain the confidentiality of **County** information.
- b) Comply with **Pierce County Data Dissemination Disclaimer** (Exhibit C) and refrain from releasing or providing Pierce County digital data to other persons or entities (secondary data dissemination). Since this County Policy is based on RCW(s) and ordinances, changes may be made annually and will be provided at the same time as the annual service rates (as stated in Section 2).
- c) Maintain the proprietary nature of Pierce County software, digital data and systems used by the **Requestor** under the terms of this Agreement.

These conditions shall be met except upon the prior written consent of the steward County department and the Pierce County Prosecuting Attorney, or an order entered by a court after having acquired jurisdiction over the **County**.

- 7) **Requestor** will immediately give to the **County** notice of any judicial proceeding seeking disclosure of **County** information by contacting the Pierce County Prosecuting Attorney's Office.
- 8) **Requestor** agrees not to transmit, upload, post or otherwise publish on or over the Service, and not seek on or over the Service, any software, file, information, communication or other content:
 - a) which violates or infringes upon the rights of any other;
 - b) which, under the circumstances and in **County's** good faith judgment, is, or is likely to be perceived by an intended recipient or target as, defamatory, deceptive, misleading or abusive;
 - c) which constitutes a threat to, harassment of, or stalking of another;
 - d) which adversely affects the performance or availability of the Service or County resources;
 - e) which contains any virus, worm, harmful component or corrupted data; or
 - f) which, without the approval of the **County**, contains any advertising, promotion or solicitation of goods or services for commercial purposes.
 - g) which allows unauthorized access to **County** data and systems.
- 9) Subject to the terms of this Agreement, the **County** grants to **Requestor** and authorized users a personal, non-exclusive, nonassignable and nontransferable license to use and display the software (referred to as Software) provided by or on behalf of **County** for purposes of accessing the Service on

any machine(s) of which **Requestor** is the primary user or which **Requestor** is authorized for use. Unauthorized copying of the Software, including software that has been modified, merged or included with the Software, or the associated written materials is prohibited. **Requestor** may not sublicense, assign or transfer this license or the Software except as permitted by **County**.

LIABILITY

- 10) The information or services supplied by the **County** pursuant to this Agreement is provided on an “ as is basis” and “with all faults” and **Requestor** will have no remedy at law or equity against the **County** in the event information provided to the **Requestor** is inaccurate, incomplete or otherwise defective in any way.
- 11) The **Requestor** agrees to defend, indemnify and save harmless the **County** and its officers and employees from any and all claims, liability and judgments, including attorney fees and costs, made by or accruing to any person as a result of the **Requestor's** conduct relating to this agreement, and the **County** agrees to defend, indemnify and save harmless the **Requestor** and its officers and employees from any and all claims, liability and judgments, including attorney fees and costs, made by or accruing to any person as a result of the **County's** conduct relating to this agreement. There are no third party rights created by this agreement.

SYSTEM OPERATIONS

- 12) The **County** retains the right to modify current systems at its discretion. The **County** will make no systems modifications on **Requestors'** behalf unless specifically detailed in Exhibit A. The **Requestor** is responsible for ascertaining the impact of changes on their business.
- 13) **Requestor** agrees that each and every person given the right to access **County** systems-will use a unique user name assigned by Pierce County Information Technology staff. Each user will sign the most current system and security agreement(s) (Exhibit B) and return to Pierce County Information Technology Department with written request for security access.
- 14) **Requestor** understands that priority is assigned to regular **County** work which may require a reasonable delay in responding to **Requestors'** requirements from time to time. The **County** shall not be held liable for service interruptions.

- 15) **Requestor** is to provide and maintain all required service components necessary to connect to **County** services in the manner authorized by the **County**.
- 16) **Requestor** is to ensure that all equipment and software used to access the Pierce County systems defined in Exhibit A, will be compatible with existing **County** configurations.
- 17) **Requestor** agrees to keep the **County** informed of any network connectivity between **Requestor** and other organizations.
- 18) **Requestor** understands and agrees that on-line access will be available only between the hours of 8:00 a.m. and 5:00 p.m. Pacific Time, Monday through Friday, exclusive of legal holidays observed by the **County**. Limited on-line access may be available outside of these hours. The **County** shall not be held liable if the system/network is off-line and not accessible.

CONTACTS

- 19) The **County** will provide a list of contacts to administer the Services provided under this agreement.
- 20) **Requestor** will provide the names of at least two (2) of their employees who will be the primary contacts with Pierce County staff. Requests for new users, user modifications or user assistance will come from these contacts. A method of verification will be provided to these employees to use when identifying themselves to Pierce County.
- 21) **Requestor** is to contact the **County** and request deletion of a staff's user name within 24 hours following notice of termination of their employment with the **Requestor**.

SPECIAL PROVISIONS

- 22) Special provisions are listed in Exhibit D.

ATTACHMENT 1 Definitions

1. Service
Service or Services is defined as this contract between the Requestor and the County to provide the work products described in Exhibit A, Scope of Services.
2. Annual Service Rates
The fees and charges for the Service(s) from the County that will be reviewed and adjusted yearly as described in Exhibit A, Scope of Services.
3. Commercial Purposes
See Exhibit C.
4. Steward Departments
One, or in some cases multiple, County departments are designated as the steward of each particular named computer system and its corresponding set of information media (data files, databases, screens, views, reports, menus, and query access). As such, steward departments have the authority to determine data access methods, the dissemination mechanism and secondary data dissemination rules (primary data dissemination rules are specified in a separate County policy statement) for any request to access such systems and information media. In order to execute this authority, steward departments are responsible for the maintenance of security, accuracy, and integrity of the computer systems and information media.
5. Data
“Data” is defined as information of an electronic or digital format as in diskettes, electronic file attachments, Zip disks, file transfer protocol (FTP), CD’s, R/W disks, and any electronic medium such as digital tape.
6. Document
“Document” is defined as hard copy work product information from the service, including, but not limited to letters, words, pictures, symbols, maps, or any combination thereof. “Document” does not include any “Data” as defined above.

EXHIBIT A
SCOPE OF SERVICES

Exhibit A - On-Line Services from Pierce County

Requestor: City of Gig Harbor	Contract #: 60253	Calendar Year Rates Shown: 2008
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System Name: Pierce County Wide Area Network
Description of System: The computing infrastructure of Pierce County. Connecting to this via secure, approved methods will allow access to systems where steward approval has been obtained.
Steward: Information Technology Dept.

Services	Charges
<p>All services listed are offered but may not be applicable. This will depend upon the connection Requestor and Pierce County Information Technology Dept. Specialist determine is best for the application.</p> <p>Information Technology Dept. will set up accounts with passwords for a list of users provided by the Requestor for each system included in this Exhibit A.</p> <p>Included in the one-time router setup fee is up to 4 hours of initial configuration consultation to discuss your hookup options and to review your proposed connectivity equipment order. Information Technology Dept. time spent connecting your telecommunications line at our router end and any associated troubleshooting will be charged at our hourly personnel rate¹ in 15 minute increments.</p>	<p>Information Technology Dept. charges:</p> <p>1) User account setup is included as part of monthly user fees (see on-going charges).</p> <p>2) \$2,500 per router port for LAN connection to Pierce County router. Requestor pays for all equipment needed to connect to router port.</p>
<p>No training offered.</p>	<p>Information Technology Dept. charges:</p> <p>N/A</p>
<p>The Wide Area Network monthly charge is a utilization fee charged to all users on the network that pays for resources necessary to maintain and enhance the network.</p> <p>Information Technology Dept. will set up accounts</p>	<p>Information Technology Dept. charges:</p> <p>1) Wide Area Network charge of \$12.20 per external user per month². Service Desk level one connectivity phone support and account setup/deletion included in this monthly charge.</p> <p>2) Additional Wide Area Network connection fee of \$12.20 per</p>

	<p>with passwords for any new users for each system included in this Exhibit A.</p> <p>Service Desk level one connectivity phone support.</p> <p>Direct services specifically outlined in this exhibit A are:</p> <ul style="list-style-type: none"> ➤ Configuration and connectivity assistance ➤ Desktop and Network Support for County supported products 		<p>user per month² for all users connecting via the Internet.</p> <p>3) Direct services outlined in this contract will be charged at our personnel rate of \$83.00 per hour¹ in 15 minute increments.</p> <p>4) \$500 annual maintenance per router port connection to Pierce County router (prorated first year)</p>
<p>Other:</p>	<p>Communications Links:</p>	<p>Requestor agrees to pay all installation and monthly telecommunications charges for lines used to access Pierce County.</p>	
	<p>Security:</p>	<p><u>Remote Access Authorization:</u> Requestor agrees to use remote authentication keyfob for each unique user accessing Pierce County when outside of the county's infrastructure. User keyfobs will be returned to Pierce County within 15 days of termination of their account access. A fee equivalent to the current cost of purchasing a keyfob will be charged to the contracting agency to replace any lost keyfobs.</p> <p><u>Encryption:</u> Requestor agrees to purchase and use any encryption software required by Pierce County to access specific systems. If necessary, requestor agrees to upgrade operating systems on PC's needing the encryption software in order to comply with encryption software requirements.</p>	

¹ Hourly rate to be used will be the Information Technology Dept. personnel hourly rate which changes each calendar year. 2008 is \$83.00.

² Monthly rate to be used will be the Monthly User Fee for Pierce County which changes each calendar year. 2008 rate is \$12.20 per user per month.

Access by the Requestor to the above system at the calendar year rates shown is approved by:

_____ Date
 Pierce County Information Technology Dept. Director

_____ Date
 Pierce County IT Operations Manager

_____ Date
 Requestor

Exhibit A - On-Line Services from Pierce County

Requestor: City of Gig Harbor	Contract #: 60253	Calendar Year Rates Shown: 2008
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System Name: OzX
Description of System: Extranet Web Server
Steward: Information Technology Dept. – Software Development Division

Services	Charges
One-time setup: None - Web browser is used to access.	Information Technology Dept. charges: N/A
Training: No Training Offered.	Information Technology Dept. charges: N/A
Ongoing Charges: Direct services specifically outlined in this exhibit A are: Software Development support, configuration and connectivity assistance.	Information Technology Dept. charges: Direct services outlined in this contract will be charged at the IT personnel rate of \$96.00 per hour ¹ in 15 minute increments.
Other:	N/A

¹ Hourly rate to be used will be the Information Technology Dept. Software Development personnel hourly rate which changes each calendar year. 2008 is \$96.00.

Access by the Requestor to the above system at the calendar year rates shown is approved by:

Pierce County Information Technology Dept. Director _____ Date _____

Pierce County Software Development Manager _____ Date _____

Requestor _____ Date _____

Exhibit A - On-Line Services from Pierce County

Requestor: City of Gig Harbor	Contract #: 60253	Calendar Year Rates Shown: 2008
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System Name: CountyView Suite - Pierce County's Subscription GIS system
Description of System: The CountyView suite of applications allows users to access production GIS data in Pierce County. The system provides users with the ability to display themes of data, perform search and locate, query associated tabular data, perform spatial analysis, and utilize customized County GIS functionality.
Steward: Information Technology Department / GIS Division

Services		Charges
Use of CVWeb and CVPro	<p>CountyView applications have been in production since 1998 at Pierce County. The CountyView suite of software has been customized and optimized for local government business functions and includes data management for over 800 themes of data, owner-notify tools, locate function, and quick map production. CVWeb is a web-based application that contains efficient searching, viewing, reporting and basic mapping functionality. Simple data creation tools are provided. Clients are responsible for ensuring the functionality in CVWeb will meet their business needs. CVPro is based on ESRI's ArcGIS and includes advanced functionality such as spatial analysis, customized mapping, attribute and feature editing, and data conversion tools.</p>	<p>CVWeb = \$1,248/ea/yr CVPro = \$3,640/ea/yr (only available for Public agencies at this time)</p> <p>Total based on options and number of users</p>
GIS Hardware	To connect to Pierce County's CVWeb application, the agency will share the use of a clustered GIS internet server with other agencies. CVPro users will connect to an internal ArcGIS server that is also shared between the online agencies and will have access to the extensions and customized tools that Pierce County has acquired or designed. For either application, the servers will be equipped with the necessary software licenses to serve the users' needs. The user's login/password must be protected to keep use at acceptable levels of performance	No extra fee Included
CVWeb and CVPro Agency Support	<p>Analyst assistance for up to a maximum of 180 hours/yr/agency for all GIS applications. Support includes: - on-call phone support, technical advice, and troubleshooting related to the CV application during regular County business hours - training on advanced functionality within the CV application - monthly onsite user meetings if requested</p> <p>Note: Free training and materials are provided for each licensed user on CVWeb (4 hr class-not deducted from support hours). Users must be familiar with the Windows environment. For CVPro access, "Introduction to ArcGIS 10" certification is required. Pierce County can provide training at a cost of \$150 per each CVPro user for materials which is charged separately upon completion of training. Other training options exist and can be discussed.</p>	<p>CVWeb = 12 hrs/ea/yr CVPro = 20 hrs/ea/yr (up to a maximum of 180 hrs/yr/agency for all applications)¹</p> <p>Included</p>
The ongoing maintenance of the CountyView applications require certifying the software on		

CountyView Maintenance	new platform releases, maintaining data sets, loading data sets into the CountyView suite, making enhancements to the system, and adding applications and extensions. Enhancements are in response to user requirements and each agency will have input in this process as well.	No extra fee	Included
The GIS Community Service	The growing GIS community in Pierce County can leverage each other's expertise to optimize the use of GIS. Pierce County GIS will facilitate this sharing of information and data by: -conducting Project meetings as necessary to discuss GIS applications and projects. This meeting is intended for managers and staff to learn about benefits and uses of GIS. -conducting Technical meetings as necessary to discuss technical and quality questions. This meeting is intended for hands-on technical users who have software questions. -prepare the GIS Bulletin which describes the GIS projects in the County, the status of GIS data conversion, notes from the Project meetings and training schedules.	No extra fee	Included
Ortho Partner	Includes access to all available digital orthophotos (current and historic), impervious surface planimetrics derived from orthos, lidar-based contours, and other layers derived from orthos under this license.	\$1,000/user/yr up to a maximum of \$7,500/agency/yr (if one user needs orthos, all users must have access – managed at agency level only)	Cost based on number of users up to maximum fee of \$7,500 per agency

¹ Hours exceeding this amount will be billed at the Information Technology/GIS personnel hourly rate which changes each calendar year. (2008 rate is \$83/hr).

Agency support and CountyView maintenance rates are subject to yearly adjustment. Access by the Requestor to the above system at the calendar year rates shown is approved by:

Pierce County Information Technology Dept. Director _____ Date _____

Pierce County GIS Manager _____ Date _____

Requestor _____ Date _____

Exhibit A - On-Line Services from Pierce County

Requestor:	City of Gig Harbor	Contract #:	60253	Calendar Year Rates Shown:	2008
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System Name:	CICS access to FIN				
Description of System:	Pierce County Financial System.				
Steward:	Budget and Finance Department				

Services	Charges	
One-time setup:	Not available	Steward charges: N/A
Training:	Not available	Steward charges: N/A
Ongoing Charges:		Steward charges: None Costs are incorporated within three (3) year average cost accounting mechanism.
Other:	Additional services agreed to but not specified above will be billed on a time and materials basis.	

Access by the Requestor to the above system is approved by:

For Steward: Budget and Finance _____ Date _____
 Pierce County Information Technology Dept. Director _____ Date _____
 Requestor _____ Date _____

**PIERCE COUNTY COMPUTER NETWORK AND INFORMATION
SECURITY ACCESS AGREEMENT**
for Employees, Contractors, Volunteers and External Agency Employees.

Access to the Pierce County Network has been provided to you so you may complete specific activities related to your job duties or contractor agreement. Any use beyond what is agreed upon and described in your duties/contract is not allowed. Security will be in place to limit your activities on the network. By signing this agreement, you state that you will not attempt to access information or services not meant to be available to you on the Pierce County network as described in your assigned duties.

You also agree to safeguard any passwords provided to you to access Pierce County systems. You must configure your access to the Pierce County network so that a password must be typed in each time you access the system(s). You cannot share this password with any one else. Log out of Pierce County systems whenever you cease working on the system or whenever you are away from your computer.

You are responsible for any damage caused by actions you take in relation to the Pierce County network that are outside of those described in your duties/contract.

You are to use the utmost discretion in preserving the confidential nature of any information you are authorized to access. Information is to be obtained for authorized purposes ONLY. Obtaining any information for personal use is prohibited; this includes looking up information in any of the computer databases for personal use. As an employee or contractor you may not observe, obtain, nor ask another person to obtain confidential information for personal reasons. "Confidential information" includes (1) information that has been obtained under governmental authority and which is prohibited by law from being disclosed to the public, as well as (2) information which Pierce County or its agencies, officers or agents have a legal duty and/or privilege not to disclose or which is otherwise not available to the public. You shall not disclose confidential information without County authorization. Releasing information may be in violation of the laws of the State of Washington, for example a violation of the provisions of the Criminal History Privacy Act (RCW 10.97) shall constitute a misdemeanor and may result in criminal prosecution. When in doubt, be discreet, and talk with your Pierce County supervisor/contact. It is better to err on the side of caution than on the side of carelessness. County employees must adhere to County policies.

I have read and understand the above policy regarding computer network access and confidential information and have received copy of same

Agency/Employer Name: _____

Employee/Contractor Information:

First Name:																			Middle Initial:		
Last Name:																					
Office Phone:				-																Ext:	
Email Address:																					

Date: _____ Employee/Contractor Signature: _____

Date: _____	Pierce County Authorizing Signature: _____
<i>(Please route to ITSystemAdmin, IT-Merit 3rd Floor after authorizing signature obtained)</i>	
Information Technology Internal Use Only:	
_____	_____
Keyfob #	Login Name Assigned
_____	Systems Accessed

EXHIBIT C

DISCLAIMERS TO and WARRANTY BY USERS of PIERCE COUNTY AND/OR GIS DATA

1. Limitations and Pierce County Data Dissemination Disclaimer

Requestor seeks access to the data described in "Exhibit A". The County makes no warranty, express or implied, concerning the data's content, accuracy, currency or completeness, or concerning the results to be obtained from queries or use of the data. ALL DATA IS EXPRESSLY PROVIDED "AS IS" AND "WITH ALL FAULTS". The County makes no warranty of fitness for a particular purpose, and no representation as to the quality of any data. Users of data are responsible for ensuring the accuracy, currency and other qualities of all products (including maps, reports, displays and analysis) produced from or in connection with Pierce County's data. No employee or agent of Pierce County is authorized to waive or modify this paragraph. If a user informs others that a product is based upon Pierce County's data, the County specifically requests and directs that the user also disclose the limitations contained in this paragraph and in paragraph 4.

2. Data Interpretation

Pierce County data is developed and maintained solely for County business functions, and use or interpretation of data by the Requestor or others is the solely their responsibility. The County does not provide data interpretation services.

3. Spatial Accuracy

Map data can be plotted or represented at various scales other than the original source of the data. The Requestor is responsible for adhering to industry standard mapping practices, which specify that data utilized in a map or analysis, separately or in combination with other data, will be produced at the largest scale common to all data sets. For example: if the zoning data scale is 1"=200' and the city boundary data set is 1"=2000', the data sets should be used at a scale of 1"=2000' or smaller.

4. Liability

Each party shall not be liable to the other (or transferees or vendees of either party) for damages of any kind, including lost profits, lost savings or any other incidental or consequential damages relating to the providing of the data or the use of it. Each party shall have no remedy at law or equity against the other in case the data provided is inaccurate, incomplete or otherwise defective in any way.

5. Requestor's Warranty Against Commercial Use of Lists

RCW 42.56.070(9) prohibits the release of lists of individuals requested for commercial purposes, and Requestor expressly represents that no such use of any such list will be made by Requestor or its transferee(s) or vendee(s). "Commercial purposes" means contacting or in some way personally affecting the individuals identified on the list with the purpose of facilitating one's commercial activities.

6. Project Data

Requestors are encouraged to supply their project data back to the County for use by the County.

7. Data Shift

The County will be shifting GIS data to improve the geographic accuracy. Any data the requestor builds on top of the County data may require adjustment. The Requestor assumes responsibility for aligning and registering data to the County data, if necessary.

Requestor: _____ Authorized Agent: _____ Date: _____

EXHIBIT D

SPECIAL PROVISIONS

Network Security

In an attempt to prevent the loss of information/data and to minimize the costly effects of network/system security attacks on system maintenance and network downtime, the County reserves the right to terminate, immediately and without notice, Requestor connection(s) to County resources if it appears that Requestor's continued connection to County systems may be harmful (for example, virus, worm or network security attacks) to either County or Requestor. Connection will not be reinstated until County determines that such threat no longer exists.

Reasonable care will be taken to re-establish connection to the Requestor within a reasonable time. By accessing the County system, Requestor acknowledges the right and discretion of County to terminate Requestor's connection(s) in the event of a network security threat and agrees that County will not be liable to Requestor for interruption of business or in any other fashion in regard to any such termination or failure to terminate. If County staff must provide assistance to Requestor to ensure Requestor's systems are free from harmful threats, charges will be assessed as described in Exhibit A attached.

"Conditions of Use," Section 6

"Secondary data dissemination" does not include the Requestor's disclosure of documents printed from the service. The Requestor agrees to immediately notify the County as provided in Section 6 of the Agreement when the Requestor receives a request for the County's digital data. If the Requestor promptly transmits such a request to the County, the County agrees to respond within the deadline in RCW 42.56.520. The Requestor shall not be required to defend the County concerning the County's refusal to disclose any data.

If the Requestor receives a request for a document(s) printed from the service, the Requestor shall make a decision whether such document(s) is exempt from disclosure and process the request accordingly. The County need not be contacted in those instances where a request is made for a document(s) only.

**AGREEMENT # 60254 FOR DEVELOPMENT/MAINTENANCE OF THE
QUICKVIEW INTERNET MAPPING SERVICE
Between Pierce County
and the
City of Gig Harbor**

This Agreement provides for service by and between the City of Gig Harbor, hereinafter called **Subscriber** and Pierce County, hereinafter called **County**. The initial term of this Agreement shall commence on the 28th day of April, 2008, and shall, unless terminated or renewed elsewhere in the Agreement, terminate on the 27th day of April, 2013. This Agreement shall be renewed annually for four (4) one year terms, unless either party gives written notice of non-renewal not less than sixty (60) days prior to the expiration of any one year term.

WHEREAS the Subscriber has access to the County's GIS; and

WHEREAS Subscriber requires a simple to use GIS web application to query, report and map the County's and Subscriber's GIS data; and

WHEREAS the County has similar web applications already developed for similar purposes; and

NOW WHEREFORE, the Subscriber and the County mutually agree as set forth below:

Service Description:

The County will provide:

1. A customized version of the County's web-based QuickView application. The application's specific functionality and user interface design are shown in Exhibit 1.
2. Access to the application based on user name and password which will limit use to those staff with valid log-in.
3. Data security: QuickView's software architecture is a three-tiered system which secures the databases and data files behind the County's firewall.
4. Access to Pierce County data sets (not other subscribers such as cities, without written approval from the subscriber/city). Orthophotography and contours are excluded unless the Subscriber participates in the Pierce County Orthophotography Program.
5. The QuickView website hardware and software to host the application for the Subscriber.
6. Support for the QuickView application during regular County business hours 7 am to 4 pm, Monday-Friday (24/7 availability not guaranteed).
7. Training on system use for 10 users, some of which would become on-site trainers at the subscribing agency for QuickView.

The Subscriber will provide:

8. A single point of contact for coordinating the implementation of QuickView and for managing users subsequent to implementation.
9. A list of the data to be included in the menu system. This includes one list of up to 40 data layers OR up to 4 separate data categories limited to 15 data sets each. For each of the datasets a list of the data/attributes to be reported in the Details page will be needed.
10. Maintenance of the GIS data that the Subscriber contributes to the application in format usable by the QuickView application.
11. The hardware and network (Internet) systems needed to use the application from the Subscriber's agency.

Subscription Terms of Use:

13. The Subscriber agrees that each and every person given the right to access the QuickView application will use a unique user name and password.
14. The QuickView application shall be used by the Subscriber's employees only and shall not be provided to the public or any third party.
15. The QuickView subscription includes 60 unique logins per QuickView application. Concurrent logins should not exceed 20 concurrent users at a time.
16. Subscriber employees using the QuickView system are required to sign the Pierce County GIS Enterprise and Data Access Agreement and abide by the terms (Exhibit 2).
17. The "use" of the QuickView application is in effect beginning at the date of this agreement and ending at the date of termination of this agreement.
18. The County retains the right to modify current systems at its discretion. The County will make no systems modifications on Subscriber's behalf unless specifically agreed to.
19. The Subscriber understands that priority is assigned to County work which may require a reasonable delay in responding to the Subscriber's requirements. The County shall not be held liable for service interruptions.
20. Subject to the terms of this Agreement, the County grants to Subscriber and authorized users a personal, non-exclusive, nonassignable and nontransferable license to use and display the software (referred to as Software) provided by or on behalf of County for purposes of accessing the Service on any machine(s) of which Subscriber is the primary user or which Subscriber is authorized for use. Unauthorized copying of the Software, including software that has been modified, merged or included with the Software, or the associated written materials is prohibited. Subscriber may not sublicense, assign or transfer this license or the Software except as permitted by County.

Defense and Indemnification Agreement:

21. The system and database supplied by the County pursuant to this Agreement is provided on an “AS IS BASIS” and “WITH ALL FAULTS” and the Subscriber will have no remedy at law or equity against the County in the event information provided to the Subscriber is inaccurate, incomplete or otherwise defective in any way. The Subscriber agrees to defend, indemnify and save harmless the County and its officers and employees from any and all claims, liability and judgments, including attorney fees and costs, made by or accruing to any person as a result of the Subscriber's conduct relating to this agreement, and the County agrees to defend, indemnify and save harmless the Subscriber and its officers and employees from any and all claims, liability and judgments, including attorney fees and costs, made by or accruing to any person as a result of the County's conduct relating to this agreement. There are no third party rights created by this agreement.

Subscription Fees:

22. The subscription fees for QuickView are the following:

- a. Initial customization (24 hours), installation and training: \$5,000
- b. Yearly subscription fee includes regular hardware and software maintenance and 20 hours of support per year \$4,000
- c. Cost for additional users beyond 20 concurrent users (based on information acquired during application tracking) \$100/user/year

23. The subscription fee includes 24 hours of initial software/data customization. This service includes loading specific data layers and modifying software to generate the details page as defined by the Subscriber.

24. The yearly subscription fee includes regular hardware and software upgrades and up to 20 hours of developer time for data customizations. The available hours should be phased carefully to include all required customizations or updates that may be necessary over a year. Yearly cost adjustments for subscription will not exceed 4% for standard hardware and software maintenance.

25. If the number of users increases beyond the 20 concurrent users which causes a slow system performance, additional hardware will be procured to maintain system performance. The additional hardware cost for this upgrade will be prorated to all users. If the software system requires upgrading or license fees are increased by third party vendors (ESRI) these additional software costs will be prorated to all users. The Subscriber will be notified of these upgrades. These upgrades will be included in the next year’s subscription costs and may be above the 4%.

26. The County will notify Subscriber of any changes in fees for the succeeding year by November 15th of the current year. Subscriber may terminate this agreement by giving County written notice to terminate as of December 31st of the then current calendar year. Upon termination and to the extent of lawfully available funds, Subscriber shall remit all amounts due through the date of termination. Fees for the new calendar year will be billed in January of each calendar year.

Future Non-Allocation of Funds:

27. Notwithstanding any other terms of this Agreement, if sufficient funds are not appropriated or allocated for payment under this contract for any future fiscal period, the Subscriber will not be obligated to make payment for services or amounts after the end of the fiscal period through which funds have been appropriated and allocated. No penalty or expense shall accrue to the Subscriber in the event this provision applies and services will be discontinued.

IN WITNESS WHEREOF, the parties have executed this Amendment on this ____ day of _____, 2008

CITY OF GIG HARBOR:

Name

Signature Date

Title

City Attorney Date
Approved as to legal form only

Mailing Address:

Street Address, if different:

Contact Name:

Phone: _____

Cell: _____

Fax: _____

PIERCE COUNTY:

Deputy Prosecuting Attorney Date
Approved as to legal form only

Recommended:

Budget and Finance Date

Approved:

Department Director Date
(less than \$250,000)

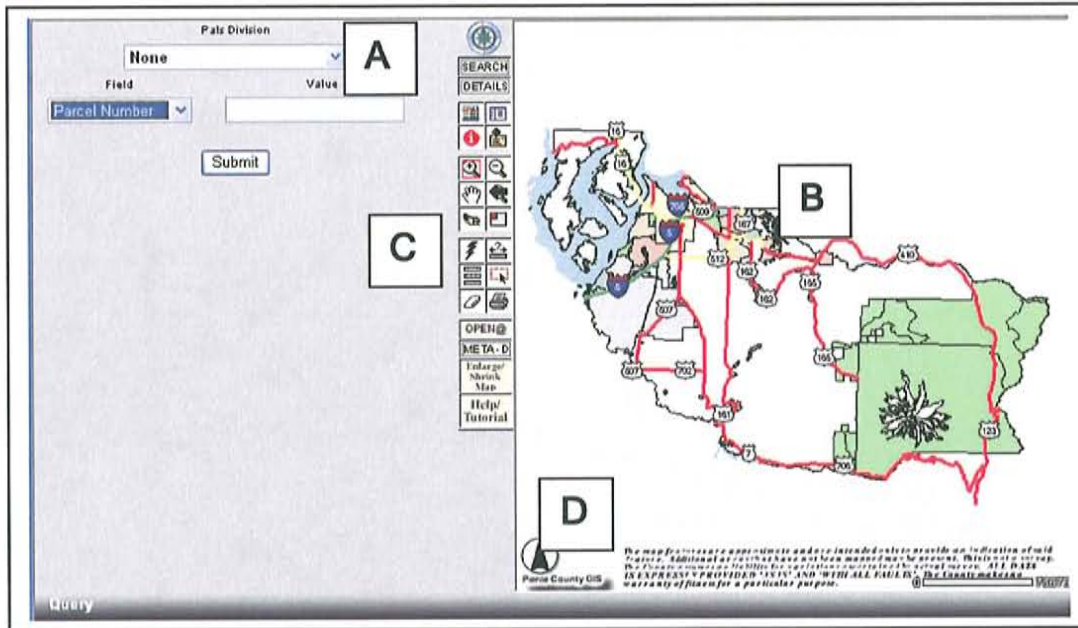
Pierce County Executive Date
(over \$250,000)

EXHIBIT 1: FUNCTIONAL DESCRIPTION OF THE QUICKVIEW APPLICATION

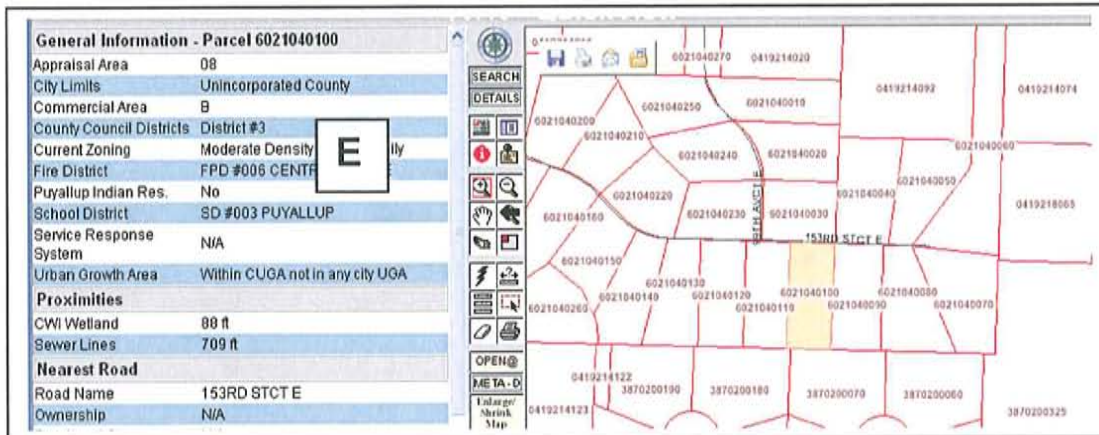
The Pierce County QuickView application is a web-based software system. The QuickView functions allow users to:

1. Query and find a location in the map display based on address, parcel owner, tax payer delivery address, parcel site address or RTSQ.
2. The query and location function is parcel based only. The system will list parcels that meet the search criteria. The user selects a parcel from the list and the software system functions are based on this parcel.
3. View user defined map data in the map display window (see B on the interface).
4. Users can define 1-4 data categories. (see A on interface) Multiple data views are chosen from a drop-down list.
5. The data menu for each category can contain 15 data layers or less
6. Perform the following GIS functions on the map display (see C on interface):
 - a. Choose data themes from a menu
 - b. View the map legend
 - c. Identify a feature (report on attributes)
 - d. Geo-code a point location based on address or intersection
 - e. Zoom-in and zoom-out of the map display (changes scale)
 - f. Pan map display
 - g. Go back to the previous map extent
 - h. Zoom to full extent of the map (county level)
 - i. Display overview map (location of map window in the county)
 - j. Hyperlink to documents associated with map features
 - k. Measure distances
 - l. Define units for distance measurements
 - m. Select a feature by rectangle
 - n. Erase feature
 - o. Print
 - p. Open @ external public GIS web sites
 - q. View meta data for features
 - r. Enlarge or shrink map display
 - s. Get help on QuickView
7. Display data disclaimers in the application and in the map view (see D on interface)
8. View a report detailing information about the selected location in the Details Screen (see E on interface). The Details report describes the existence of features for the specific parcel. Features not “crossing” or “intersecting” the parcel will not be reported.
Details general information can include up to 25 existing data sets (already defined in QuickView) and 5 client specific data sets. Details proximity information can include two existing data sets and one client specific data set
9. The Print Report function is designed to print a report of the details page, the map display, the legend and disclaimers. The report format cannot be changed.

QuickView User Interface



QuickView Details Screen



QuickView Printed Report

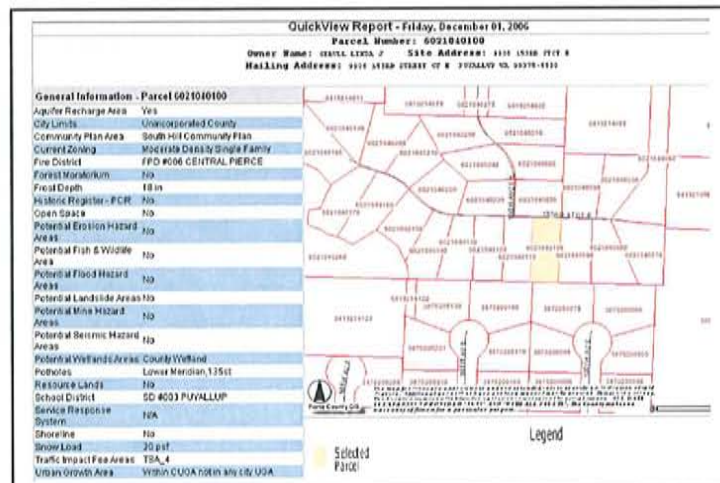


Exhibit 2 - Pierce County GIS Network and Data Access Agreement

1. Access to the Pierce County GIS network and data is being provided to you for use in specific activities related to your job duties. Any use beyond those duties is not permitted. All use is subject to the following conditions.
2. **Your login and password are specific to you and may not be shared with others.** You are responsible for safeguarding your login and password and for logging out of the Pierce County systems whenever you cease working or are away from your computer. Login activity may be monitored to detect multiple users on a single login.
3. **Users are responsible for data security.** You are responsible for maintaining the confidentiality of information within County data. "Confidential information" means information the release of which is prohibited by law, and information relating to individual personal privacy or which otherwise is exempt from public disclosure under RCW Ch. 42.56.
4. **Users are responsible for the integrity of data use and interpretation.** Users may not represent County data or business practices. Because you will have direct access to County GIS data you may be questioned about how the data relates to County business practices. The public or engineers or others should be directed to the County to answer questions about data, permits, zoning, assessments, utilities, the environment or any County business function. You will be responsible for any misrepresentations you make about the County data.
5. **Users are responsible for spatial data accuracy.** GIS data can be represented in a map at various scales other than the original source of the data. The user is responsible for adhering to industry standard mapping practices which specify that data utilized in a map or analysis, separately or in combination with other data, will be produced at the largest scale common to all data sets. Meta data about each County data set describes the accuracy, scale, source and restrictions of data use.
6. **Users may not secondarily disseminate any data.** Users may not provide copies of Pierce County GIS digital data to any person, agency or company. Users are permitted to make and distribute hardcopy maps of County data if the map contains (at a minimum) a legend, scale, date and proper disclaimers (see paragraph 8 below). Other parties interested in obtaining the digital data should be directed to submit a data request through the Pierce County GIS Data Express found on the Pierce County website, where they will then be directly and fully informed of the limitations and appropriate use of the digital data.
7. **Users may not provide lists of names.** RCW 42.56.070 prohibits the use of lists of individuals obtained from government agencies for commercial or profit-expecting activity.
8. The County makes no warranty, expressed or implied, concerning the data content, accuracy, currency or completeness, or concerning the results obtained from queries or use of the data. **ALL DATA IS EXPRESSLY PROVIDED "AS IS" AND "WITH ALL FAULTS"**. Users of any and all of the data (including the orthophotography) are responsible for ensuring the accuracy, currency, and other qualities of all products (including maps, reports, display and analysis) produced from or in connection with the Pierce County GIS Data. If a user of the data informs others that that product is based upon Pierce County Data, the County specifically directs the user to also disclose the terms of this paragraph to them verbatim. Pierce County shall not be liable for damages of any kind, including lost profits, lost savings, or any other incidental or consequential damages related to providing the data or the use of it.

I have read and understand the above policy regarding the use of the GIS network and data (which may be confidential and is regulated under several RCW's), and have received a copy of this document. I understand that failure to comply with these terms will result in termination of CountyView Web system use. Pre-paid fees will be forfeited and the County may seek legal redress against you personally and/or against your employer.

Agency/Employer Name: _____

Employee Name: _____

Employee Work Phone: _____ Employee Work email address: _____

Signature: _____ Date: _____

IT-GIS Use Only: Login Name Assigned: _____



Subject: Appointments to Gig Harbor Arts Commission

Proposed Council Action: None

Dept. Origin: Administration

Prepared by: Chuck Hunter, Mayor

For Agenda of: May 27, 2008

Exhibits: Recommendation from the Board and Commission Candidate Review Council Committee and respective applications

Initial & Date

Concurred by Mayor:

CLH May 20, 08

Approved by City Administrator:

PK 5/20/08

Approved as to form by City Atty:

CAM 5/20/08

Approved by Finance Director: _____

Approved by Department Head: _____

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

There are presently three vacancies on the Gig Harbor Arts Commission. Five applications were received. My decision to appoint Carola Stark, Tracy Von Tratha and Pat Rosenthal was based on the applicants' knowledge of the arts and past experience serving on a board/commission, and the recommendation from the Board and Commission Candidate Review Council Committee.

FISCAL CONSIDERATION

None.

BOARD OR COMMITTEE RECOMMENDATION

The Board and Commission Candidate Review Council Committee recommended the aforementioned people be appointed to the Gig Harbor Arts Commission for a three-year term.



"THE MARITIME CITY"

**BOARD & COMMISSION CANDIDATE REVIEW COUNCIL
COMMITTEE RECOMMENDATION**

TO: MAYOR HUNTER
FROM: COUNCILMEMBERS EKBERG, KADZIK & PAYNE
SUBJECT: GIG HARBOR ARTS COMMISSION RECOMMENDATION
DATE: MAY 19, 2008

The Candidate Review Committee met on May 13, 2008 with the five applicants that applied for the Gig Harbor Arts Commission vacancies. There are currently three vacancies on the Commission. The Candidate Review Committee recommends that **Carola Stark, Tracy Von Tratha and Pat Rosenthal** be appointed for a three-year term based upon their background in the arts and/or familiarity with serving on boards and commissions.

Carola M. Stark

PO Box 1553, Gig Harbor WA . 253. 851. 2551 . oia5@earthlink.net

RECEIVED

APR 14 2008

**CITY OF GIG HARBOR
OPERATIONS & ENGINEERING**

April 11, 2008

Chuck Hunter, Mayor
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

ATTN: Maureen Whitaker

It is with great enthusiasm that I submit my application for the opportunity to serve on the board of the Gig Harbor Arts Commission.

Since 1995, I have served committees, non-profit groups, communities, and fundraisers through event coordination, event marketing, and working with community and business sponsors. I have experienced how art can build a better community, offer opportunities for economic development, as well as provide opportunities to showcase local art and artists. While I have not "officially" served on a board, I understand the protocol and dedication required to fill this vital community role, as well as the professionalism required working with the City Council and City Officials.

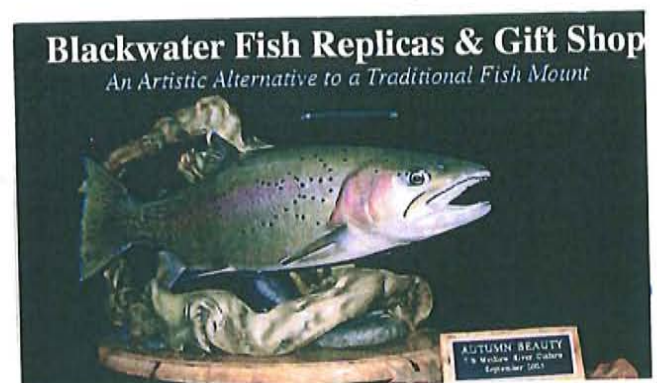
Attached is my professional resume' where I have highlighted experiences that I feel make me a good fit to serve on the Gig Harbor Arts Commission. I have also included a list of professional references.

Thank you for your consideration and I welcome the opportunity to serve the community of Gig Harbor!

Sincerely,

Carola Stark

Carola M. Stark





Application for City of Gig Harbor Commissions, Boards or Committees

(Additional information and/or a resume may be submitted with this application)

Name Carola M. Stark
 Physical Address 3016 136th St. NW Phone (253) 851-2551
 Mailing Address PO Box 1553
 City Gig Harbor, State WA Zip Code 98335
 How long have you resided in Gig Harbor? Since Nov. 2002
 Are you a resident of the City Limits? Yes No How long? N/A

- (1) What is your interest/objective in serving on this Board or Commission? Have experience in marketing + promotion of community through events, art + music. Understand how Art can showcase and →
- (2) What is your educational background? Bachelors of Arts - Evergreen State College Marketing + Communications. 30+ years business, sales + Marketing experience. →

Do you have other civic obligations and/or memberships in professional organizations (please list office held, duties, and term of office)?

Not currently

- (3) What previous experience do you have serving on a board, committee or commission?
None serving - but played a "support role" supporting part of Olympia Commission, have worked with →
- Where are you currently employed (job title, employer, dates, supervisor, phone)?
Self-employed. Marketing + Sales Rep. for Blackwater Fish Replicas, Wildlife Artist Luke Filmer

Boards, Committees and Commissions Interest

Please indicate which Boards, Committees or Commissions you would be interested in serving on.

- Arts Commission
- Building Code Advisory Board
- Design Review Board
- Lodging Tax Advisory Board
- Parks Commission
- Planning Commission
- Volunteer _____

Please return completed application to:

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

Applicant Signature Carola Stark Date 4-11-08
 (Over)

REFERENCES (Please list a minimum of three (3) references).

* See Attached **Consent Agenda - 10**

Name	Address	Business	Phone Number
*			
*			
*			
*			

If more space is needed to answer one of the previous questions, please restate the question below then complete your response.

(1) Interest / Objective (cont.) = ... promote a community within, as well as offer as an economic development tool. Art in various forms builds a better community. I welcome an opportunity to serve art, artists, and our community of Oig Harbor.

(2) Educational Background (cont.) = ... 10 years experience in event coordination with emphasis on event marketing + Sponsors.

(3) Previous Exp. (cont.) = ... many boards and non-profit groups as an event coordinator, event marketing, and securing and supporting event + festival sponsors.

"Resume Attached"

References

Gig Harbor

Patty Preuit
Owner, Preuit Estate Furnishings
(253) 853-5994

o

Peter Filmer
Realtor, Windermere Real Estate
(253) 312-2535

Port of Olympia

Kari Qvigstad
Marketing & Business Development Director ~ Port of Olympia
(360) 528-8013

o

John Wolfe
Deputy Executive Director ~ Port of Tacoma
(253) 592-6710

o

Patti Grant
Communications Manager ~ Port of Olympia
(360) 528-8012

o

Teresa Olson
Executive Mansion Administrator ~ Washington State Governor's Mansion
(360) 753-1488

Behind the Scenes Event Consulting - Owner

Wendy Fraser
Festival Co-Chair, Capital Food & Wine Festival
YR: 2002 - 2004
(360) 438-3936

o

Meg Kester
Marketing & Communications Manager ~ Intercity Transit ~ Event Sponsor
(360) 705-5842

o

Jeff Dickison
Former Port of Olympia Commissioner
Olympia Harbor Days Festival & Port of Olympia Special Projects
(360) 432-3815-Business
(360) 791-8114-Home

Carola M. Stark

PO Box 1553. Gig Harbor WA 253. 851. 2551.
carola@blackwatertrading.com

OBJECTIVE

To make a valuable contribution to my community, art, and artists, in an environment that will allow me to utilize my communication and marketing skills, interact with people, and serve the public

SKILL SUMMARY

- Project Management Experience
 - Proficient at Business Development & Marketing Strategies
 - Experienced in Executive Level Administrative Support
 - Talented Event Coordinator
 - Effective Communicator
 - Strong Team Player
 - Customer Service Professional
 - Public Speaking Experience
-

EXPERIENCE

The positions listed below required a high level of independence, accuracy, decision-making, varied administrative experience, computer knowledge, supervisory skills, excellent oral and written communications, professionalism, confidentiality, and a desire to learn and grow with each opportunity

BLACKWATER TRADING CO., Gig Harbor, WA

October 2005 to Present

Marketing & Sales Manager

Manage business and coordinate short and long-range business development and marketing strategies for national wildlife artist. These included but were not limited to:

- Design and manage company website (www.blackwatertrading.com)
- Implement search engine optimization techniques for website marketing
- Develop and manage media outreach publicity plans
- Manage marketing strategies through industry trade shows and events
- Arrange all design and printing of marketing materials
- Develop and manage database program in Access
- Qualify, track and manage industry sales leads and contacts
- Handle administrative tasks, as well as manage business operations

PORT OF OLYMPIA, Olympia, WA

June 2000 to October 2005

Business Development Representative & Special Projects Coordinator

As the Port of Olympia's Business Development Representative, I assisted the Director of Marketing & Business Development with short and long-range business development and marketing strategies for all Port business units. (Marine Terminal, Marina, Airport & Properties)

These included but were not limited to:

- Designed and improved processes intended to identify, qualify and contact targeted business development leads for marine terminal, airport, marina and properties department
- Required to interface with high-level external contacts, liaison with prospective and existing Port tenants, clients, stakeholders, Port Directors, Commissioners, elected officials and Port employees
- Participated in sales calls, lease negotiations, and showcasing opportunities for all Port business units

- **Assisted Port Communications Manager with public relation initiatives, public-outreach activities and communications support for elected officials**
- Provided administrative assistance to Director of Marketing and Business Development; including program development, meeting coordination, meeting minutes, conferences and travel
- Prepared correspondence independently and as directed
- Supervised college interns and office support staff

Special Projects Coordinator

As the Port of Olympia's part-time *Special Projects Coordinator* I was responsible for:

- Presented before industry groups as a representative of Foreign-Trade Zone #216
- Coordinated with Foreign-Trade Zone policy group members on marketing, media and business development strategies
- Coordinated annual Foreign-Trade Zone seminar presented to Puget Sound community.
- **Project Coordinator for five years on the Port of Olympia's annual Swantown BoatSwap & Chowder Challenge event**
- Coordinated Port participation in annual community events and showcasing opportunities for all the Port's business units

BEHIND THE SCENES EVENT CONSULTING, Olympia, WA

1999 – 2004

Owner & Event Consultant

As the owner and event consultant, I worked with my clients and event stakeholders on:

Capital Food & Wine Festival – Saint Martin's College, Lacey
Olympia Harbor Days Festival – South Sound Maritime Heritage Association
Music in the Park – Olympia Downtown Association
Tacoma Wine Classic – Tacoma Community College
Super Saturday Festival – Evergreen State College

- Coordinated with Associations, Boards, and non-profit community groups
- Organized and managed a variety of events and festivals
- Developed advertising and media campaigns specific to the event
Wrote event articles, press releases, media alerts and talking points
- Designed sponsorship and fundraising strategies
- Scheduled contract services as it relates to;
Art, artists, vendors, entertainment, communication planning, graphics, publications, and event operations
- Monitored contracts with marketing and public relation agencies
- Designed event themes
- Excelled at organizational and multi-tasking skills
- Developed good working relationships with clients, stakeholders and employees
- Managed marketing and event budgets

EXECUTIVE HOSTS, Federal Way, WA

1995 – 1998

Outside Sales Representative & Event Coordinator

- Handled outside sales and managed all corporate accounts
- Coordinated and planned all events from inception to completion
- Worked with clients to create event theme, book entertainment, customize menus and design event layout
- Prepared and presented cost estimates and event contracts
- Supervised internal sales support and on-site event staff
- Scheduled staff, equipment, rentals and all event activities

NOTE: Averaged \$1,000,000.00 in sales volume per year

GRAKON INTERNATIONAL, INC., Des Moines, WA

1990 – 1995

Office Manager

Managed all business operations. Duties included but were not limited to:

- Managed day-to-day business operations for this import/export company
- Supervised shipping and receiving department
- Handled all business accounting including payroll and taxes
- Coordinated inventory and scheduling with Hong Kong supplier
- Worked with customs brokers, shipping lines, and freight forwarders
- Handled company correspondence, customer service, and client relationships

NOTE: \$5,000,000.00 in sales volume

EDUCATION

THE EVERGREEN STATE COLLEGE, Olympia, WA <i>Bachelor of Arts Degree in Communications & Marketing</i>	1998-2000
HIGHLINE COMMUNITY COLLEGE, Des Moines, WA <i>General Transfer Classes</i>	1992 - 1994
SOUTH PUGET SOUND COMMUNITY COLLEGE, Olympia, WA <i>Business Administration</i>	1986 - 1988
IMPAX TRAINING, PORT OF OLYMPIA <i>Intensive Sales Training Program</i>	2004 - 2005

COMPUTER SKILLS

Software:	WORD, Access, Outlook, Excel, ACT
Presentation Software:	PowerPoint, Publisher
Accounting Software:	QuickBooks, MAS90, Great Plains
Web Design Software:	FrontPage
Current Operating System:	Windows XP

References Available Upon Request

April 10, 2008

City of Gig Harbor
Office of the Mayor
Attn: Maureen Whitaker
3510 Grandview Street
Gig Harbor, WA 98335

Mayor Hunter,

I submit this letter and attached application to express my interest in serving on the Gig Harbor Arts Commission. As a citizen, I am in favor of public programs that enhance our community in support of its artists and art organizations, especially those that promote the culture and heritage of our region.

Although I have never served on a commission, with my background as a design professional I believe I am equipped to be a part of the process of evaluating proposals regarding the arts that would be in the best interest of the City and its residents.

If chosen for this commission, I look forward to serving and assisting to provide opportunities for the citizens of Gig Harbor to celebrate and appreciate the fine and performing arts.

Thank you for your consideration.

Sincerely,



Tracy L. von Trotha
5212 25th Avenue NW
Gig Harbor, WA 98335

tvontrotha@hotmail.com



Application for City of Gig Harbor
Commissions, Boards or Committees

(Additional information and/or a resume may be submitted with this application)

Name TRACY L. VON TROTHA
Physical Address 5212 25th AVE NW Phone (253) 651-6726
Mailing Address SAME
City GIG HARBOR State WA Zip Code 98335

How long have you resided in Gig Harbor? 4 YEARS
Are you a resident of the City Limits? Yes No How long? _____

What is your interest/objective in serving on this Board or Commission? PLEASE SEE ATTACHED LETTER.

What is your educational background? PLEASE SEE ATTACHED RESUME.

Do you have other civic obligations and/or memberships in professional organizations (please list office held, duties, and term of office)?
NOT AT PRESENT

What previous experience do you have serving on a board, committee or commission?
PLEASE SEE ATTACHED LETTER

Where are you currently employed (job title, employer, dates, supervisor, phone)?
PLEASE SEE ATTACHED RESUME

Boards, Committees and Commissions Interest

Please indicate which Boards, Committees or Commissions you would be interested in serving on.

- Arts Commission
- Building Code Advisory Board
- Design Review Board
- Lodging Tax Advisory Board
- Parks Commission
- Planning Commission
- Volunteer _____

Please return completed application to:

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

Applicant Signature Tracy Von Trotha Date 4.10.2008
(Over)

TRACY L. VON TROTHA

5212 25th AVENUE NW - GIG HARBOR, WA 98335

Experience

Thomas Cook Fitzgerald Architecture, PLLC, Tacoma, WA

Position: Project Architect

April 2005 to present

Responsibilities:

Lead project development and documentation from design through construction documents. Manage project coordination with team members and consultants. Manage technical development and quality control of construction documents.

Hecker Architects, PS, Bremerton, WA

Position: Project Designer

June 2004 to March 2005

Responsibilities:

Technical development and documentation of residential and commercial renovations working with consultants and project team.

LS3P Associates Ltd., Charleston, SC

Position: Associate Intern within the Healthcare/Technology Group

June 1998 to November 2003

Responsibilities:

Production drawings, design, 3D computer modeling, programming, product research, building code research and construction observation.

Looney Ricks Kiss Architects, Inc., Memphis, TN

Co-op student, August 1996-July 1997

Education

North Carolina State University

Master of Architecture, May 1998

Concentration: Urban Design

University of Memphis

Bachelor of Science in Engineering Technology,
cum laude, May 1992

Major: Architectural Technology

Certifications

Registered Architect, State of Washington (2005)

Registered Architect, State of South Carolina (2004)

NCARB Certificate (2004)

Honors

AIA/AAH Herman Miller Scholarship recipient (2000)

Tau Sigma Delta Honor Society (1997)

Activities

2003 Leadership Charleston Graduate

2002 AIA Charleston/Habitat for Humanity Design Competition

References available upon request

TRACY L. VON TROTHA

5212 25TH AVENUE NW - GIG HARBOR, WA 98335

References

Randy Cook, AIA, Principal
TCF Architecture, pllc
902 North 2nd Street
Tacoma, WA 98403
P: (253) 572-3993

Larry Neufeld, Senior Pastor
Olympic View Baptist Church
4707 Elwood Drive West
University Place, WA 98446
P: (253) 565-3995

Kent McLaren, AIA, Project Manager
BCRA Design
2106 Pacific Avenue, Suite 300
Tacoma, WA 98402
P: (253) 627-4367

APR 23 2008



Application for City of Gig Harbor Commissions, Boards or Committees:

(Additional information and/or a resume may be submitted with this application)

Name Pat Rosenthal
 Physical Address 4108 Forest Bel Dr NW Phone 253-265-6375
 Mailing Address " 225-6375
 City Gig Harbor State WA Zip Code 98335
 How long have you resided in Gig Harbor? 30+ years
 Are you a resident of the City Limits? Yes No How long? _____

What is your interest/objective in serving on this Board or Commission? Nature has given Gig Harbor a wonderful location on Puget Sound. We can enhance our home town with art and encourage people to visit and enjoy the natural views, the food of local eateries and public art displayed on our streets. I'd like to play a part in deciding the selection of future public art, encouraging local artists and local related art programs and projects.

What is your educational background? B.S. Biology '73, B.S. Bacteriology '73
Secondary Education Teachers' certificate '73 I consider my Quilt classes a continuation of my formal training.

Do you have other civic obligations and/or memberships in professional organizations (please list office held, duties, and term of office)?

V.P. Gig Harbor Quilters Guild thru June 2009
(program chair)

What previous experience do you have serving on a board, committee or commission?

I admit I prefer to direct rather than compromise but - as show chair for Gig Harbor Quilters annual show I know I can work by committee action, too!

Where are you currently employed (job title, employer, dates, supervisor, phone)?

Retired

- Boards, Committees and Commissions Interest**
- Please indicate which Boards, Committees or Commissions you would be interested in serving on.
- Arts Commission
 - Building Code Advisory Board
 - Design Review Board
 - Lodging Tax Advisory Board
 - Parks Commission
 - Planning Commission
 - Volunteer _____

Please return completed application to:

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

Applicant Signature Pat Rosenthal Date Apr 21, 2008

(Over)

REFERENCES (Please list a minimum of three (3) references).

Name	Address	Business	Phone Number
Janet Larson	8911 Glenwood Rd SW Port Orchard, WA	Retired - office Manager - Presently Sub. Quilter - Present	H. 360-876-8398 Cell 253-208-3150 Fayequil.com
Faye Labamario	50 Mt. Vernon Street Dover, N.H 03820	Wm. Quilt Ventures, Inc. Sleeve Hawaii Quilt Festival	603-742-0211
Lathi Vincent	7716 Pioneer Way Gig Harbor	Harbor Quilt Dance	253-858-5414
Howard Mackert	3523A 57 th Ct Strait-Harbor	Mackert Automotive OWNER	253-851-3307

In the additional space provided below, please restate the question from the reverse side and state your response.

A two year old can understand the bronze statue of a fisherman pulling in his nets. A more sophisticated mind can appreciate the irony/beauty/humor of decorated salmon sculptures. I hope in the future in Gig Harbor there will be room for some even more complex and abstract public art. Making the public aware art in their everyday lives is exciting. Europe has a long history of public art, even the eastern U.S. seaboard cities have considerable public art. I think children in Gig Harbor should grow up exposed to all forms of public art/beauty. Public art can include beautiful parks and gardens, architecture, murals, public art displays and music, museums full of great art, etc.

For more than 20 years my passion has been fiber art. I began as a traditional quilt maker and have expanded my skills to wall art quilts and embellishments. From 2001 through 2004 I was deeply involved in procurement and creating my own donation quilts for the Gig Harbor Quilt Festival's live auction to support breast cancer causes. I have also been a participant in the Gig Harbor Summer Art festival (even a juror one year), peninsula area Open Studio Tours and Kitsap County art shows. Currently I serve as vice-president of the Gig Harbor Quilters guild. For 12 years I have taught quilt classes from Gig Harbor to Hawaii. My donated quilts have cheered and supported cancer patients, hospice residents, sick kids, and other charity causes.

I may be passably knowledgeable about art quilts but I also appreciate a variety of art forms. As a member for 5 years of the peninsula Open Studio Tours, I most enjoyed the chance to listen to other artists discuss their interpretations of the world through their art forms. For me opening my studio wasn't as much a sales opportunity as a chance to welcome tourists and locals into my studio and the chance to share my personal interpretation of the world through fabric.

P.S. ("I am a "piecer" - This form just demonstrates my "creative piecing" skills!")

Pat Vincent
Apr 24, 2008



Subject: Pierce County and City Of Gig Harbor Storm Water Mapping Inventory Service Agreement.

Proposed Council Action:

Award of the attached Agreement No. 59618 "Collection of Storm Drainage Infrastructure" between Pierce County ITD/GIS And The City Of Gig Harbor.

Dept. Origin: Public Works

Prepared by: William Hendrickson
Engineering Technician

For Agenda of: May 27, 2008

Exhibits: Pierce County Agreement #59618
Three copies

Initial & Date

Concurred by Mayor: CLH 5/20/08
Approved by City Administrator: PK 5/19/08
Approved as to form by City Atty: Cam 5/19/08
Approved by Finance Director: N/A
Approved by Department Head: [Signature] 5/19/08

Expenditure	Amount	Appropriation
Required \$15,000	Budgeted \$75,000	Required 0

INFORMATION / BACKGROUND

The City has been negotiating with Pierce County on an agreement for the use of personnel and equipment for the infrastructure collection and update to the City's current storm water GIS database. One component of the recently enacted City NPDES Permit is for the City to provide an updated storm water mapping inventory and database.

Carol Morris, City Attorney has reviewed and approved the proposed agreement as to form.

Staff is requesting to adopt the current agreement presented by Pierce County.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the award of the attached Agreement No. 59618 "Collection of Storm Drainage Infrastructure" between Pierce County ITD/GIS And The City Of Gig Harbor.

AGREEMENT #59618
COLLECTION OF STORM DRAINAGE INFRASTRUCTURE
BETWEEN PIERCE COUNTY ITD/GIS
AND THE CITY OF GIG HARBOR

THIS AGREEMENT is made by and between Pierce County, a political subdivision of the State of Washington and the City of Gig Harbor, a Washington municipal corporation, on the date set forth below.

WHEREAS, in 2004, the City and County entered into an Agreement for "Drainage Collection of Storm Drainage Infrastructure," Agreement #35894, which involved the County's services to the City relating to the collection of information that would be added to the City's drainage feature inventory; and

WHEREAS, Agreement #35894 has expired; and

WHEREAS, the City desires to add information to the City's drainage feature inventory relating to new or modified storm drainage infrastructure within their UGA;

NOW, THEREFORE, the parties hereto agree as follows:

TERMS

Section 1. Description of Work. Pierce County agrees to perform the following work under this Agreement:

- A. An updated drainage feature inventory for the City for projects to be identified by the City within their UGA, which is set forth in Attachment A, attached hereto and incorporated herein by this reference. The data will be collected with GPS equipment which has a positional accuracy of +/- 2 1/2 feet. The GPS data will be corrected to correspond to the County's State Plane coordinate system.
- B. The drainage feature inventory will utilize the existing City data dictionary for drainage and the features that will be collected include structures (culverts, inlets, outlets, catch basins, dry wells, etc.) and open channels. Outlet points that cannot be found will be noted for future research by the City. For the projects identified by the City, drainage features will be collected on public land, for private systems (when accessible) and in commercial/parking lots.
- C. The drainage inventory will be loaded into the shapefile format. The shapefiles for the drainage features will be loaded into the County's GIS system. Data access will be entered via the GIS and can subsequently be viewed, analyzed and plotted.
- D. Before the data is loaded into the GIS system, the data will need to be "cleaned" as it moves from the GPS systems into the production environment. County staff will utilize the County's software to conduct the initial quality control for this project.
- E. The County staff dedicated to the project will be responsible for the data collection, adjusting the GPS data for the GIS and loading the information into the database and GIS themes. The procedures utilized in previous drainage inventory projects will be incorporated for this project to improve the quality and accuracy of data. Under the previous Agreement, the County provided the City with a copy of the *Standard Operating Procedures* utilized for the collection of drainage. The City will be provided an updated version for its reference and approval before work commences. Errors and omissions to the data found during these processes will be noted for correction by the crew when they return to the field.
- F. The County does not guarantee an error free dataset. The project dataset is created with information gathered by a team that may consist of County and City staff with final data acceptance by City staff. Errors found in the dataset during the collection phase of the project will be corrected immediately.

Errors, e.g. missing features, incorrect attribution, flow direction, etc., found after the initial dataset has been accepted will be corrected during the next update.

- G. The County will provide metadata documentation for the digital data set.
- H. Data collected for Gig Harbor from this project is the property of the City and all source materials and documentation will be returned to the City at the completion of the project.
- I. As part of the field collection process, the County will provide a technical transfer of knowledge to City staff on the drainage data dictionary, the collection methodology, utilization of the GPS equipment and downloading of the raw data. The objective is to have the City develop internal skill sets to collect their drainage in the future.
- J. For each drainage inventory update cycle approved under this Agreement, the City and the County will determine who will provide the vehicle and the City will be charged for fleet costs incurred if provided by the County of \$43.65 per day. A vehicle provided by the City must be capable of carrying the crew and the GPS equipment without having to disassemble the GPS equipment.

Section 2. City's Obligations. The City shall have the following responsibilities under this Agreement:

- A. The City shall identify a contact person/project manager who has in-depth knowledge of the City's drainage system for the length of this Agreement to answer drainage feature questions about the projects to be collected.
- B. At the City's discretion, the City shall have staff available to supplement the County's collection team.
- C. The City shall provide the tools to inspect the drainage features, e.g., tape measure, CB hook, yellow chalk, steel pry bar, flashlight, etc., which were utilized under the previous Agreement.
- D. If warranted, the City shall provide traffic control on appropriate streets.
- E. The City shall be responsible for the final quality control and acceptance of deliverables.
- F. City staff may be part of the field crew. The City staff should be knowledgeable of the City's drainage system. The City staff should have attended safety training and will wear protective footwear and reflective vests.
- G. All equipment purchased by the City for the project is the property of the City.

Section 3. Payment.

A. The City shall pay the County an amount based on time and materials at the current approved GIS rates of \$65 per hour for one County staff member and \$130 per hour for two County staff. If the City requests the County to utilize a County vehicle, the City will be responsible for the fleet costs involved for the collection. Payments made under this Agreement shall not exceed Fifteen Thousand Dollars (\$15,000) for the services described in Section 1 herein. This is the maximum amount to be paid under this agreement and shall not be exceeded without the prior written authorization of the City in the form of an executed amendment to the Agreement. The County shall not bill rates in excess of the hourly rates unless both parties agree to an amendment of the Agreement.

B. The County shall bill the City upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within thirty days (30) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the County of the same within fifteen (15)

days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

Section 4. Duration of Work

The parties agree that the work shall be complete by December 31st, 2008. See Attachment A for the approved list of work for this contract.

Section 5. Termination

A. Termination of Agreement. This agreement shall commence upon execution by the duly authorized representatives of both parties. Either party may terminate this Agreement for any reason, with thirty days advance written notice to the other party at the address listed herein.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the County to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section 3 above. After termination, drainage inventory records and data that have been approved and paid for by the City may be used by the City without restriction.

Section 6. Defense & Indemnity Agreement

The City shall defend, indemnify and hold the County, its officers, officials and employees harmless from any claims, injuries, damages, losses or suits including attorneys' fees arising out of or in connection with the City's performance of the City's responsibilities under this Agreement, except for injuries and damages caused by the sole negligence of the County.

The County shall defend, indemnify and hold the City, its officers, officials and employees harmless from any claims, injuries, damages, losses or suits including attorney's fees arising out of or in connection with the County's performance of the County's responsibilities under this Agreement, except for injuries and damages caused by the sole negligence of the City.

In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the County and the City, their officers, officials and employees, then each party's liability hereunder shall be only to the extent of each party's respective negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the City's and the County's waivers of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. These waivers have been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

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

Section 7. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to Pierce County's GIS Manager and the County shall determine the term or provision's true intent or meaning. The City Engineer and GIS Manager shall mutually decide questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the County under any of the provisions of this Agreement which cannot be resolved or a determination made within a reasonable time, or if the parties do not agree on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in

accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

Section 8. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee listed on the signature page.

Section 9. Modification

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

Section 10. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits that maybe attached hereto, shall supersede all prior verbal statements of any officer or other representative of the County, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

Section 11. Severability. In the event that any phrase, sentence, section or other portion of this Agreement is determined to be invalid, such invalidity shall not affect the remainder of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2008.

CITY OF GIG HARBOR:

PIERCE COUNTY:

Name Date

Deputy Prosecuting Attorney Date
(Approved as to legal form only)

Signature

Recommended:

Title

Budget and Finance Date

Street Address:

Risk Management Date

Mailing
Address: 3510 Grandview Street

Approved:

Gig Harbor, WA 98335

Department Director Date
(less than \$250,000)

Contact Name: Stephen Misiurak, P.E.

Contact Phone: (253) 851-6170

or

Contact FAX: (253) 851-8563

Pierce County Executive (over \$250,000) Date

Contact Email: misiuraks@cityofgigharbor.net

Mailing
Address: 615 S 9th ST #300

Tacoma, WA 98405

Contact Name: Kristina Waldron

Contact Phone: (253) 798-6788

Contact FAX: (253) 798-6622

Email: kwaldro@co.pierce.wa.us

Attachment A

Storm GPS Development List

Any variance from this list must first be approved by the City Engineer.

1. Olympic Mixed Use (including 32nd St.)
2. Uptown
3. Gig Harbor Retirement residence
4. 50th street
5. Olympic Dr. Pt Fosdick Dr. Intersection
6. Pioneer way
7. Uddenberg
8. Bask Development (off Wagner Way)
9. 36th and Pt Fosdick Dr.
10. Borgen and Peacock Hill Ave. intersection roundabout
11. Harbor Crossings
12. Harbor Hill Dr.
13. West Pond
14. North Tank Access Road
15. Borgen Blvd. (Lower Roundabout to Peacock)
16. Emerald Lane
17. Costco
18. YMCA
19. Wade Perrow Building
20. North Harbor Campus (lot 1&2)
21. Jeff Hill Professional Office Building (off Harborview)
22. Lot 4 road
23. Venture Bank
24. NPDES Permit requirements
25. Other Private Development and City Storm Drainage systems when completed.



Subject: Slayback/Vasquez
Settlement, Release and Covenant Not
To Sue

Proposed Council Action: Authorize the
Mayor to Sign the Settlement, Release
And Covenant Not to Sue on behalf of the
City

Dept. Origin: City Attorney
Prepared by: City Attorney
For Agenda of: May 27, 2008
Exhibits: Settlement . . . Agreement

Initial & Date
Concurred by Mayor: CLH 5/13/08
Approved by City Administrator: PJK 5/13/08
Approved as to form by City Atty: CAM 5/13/08
Approved by Finance Director: DR 5/13/08
Approved by Department Head: _____

Table with 4 columns: Expenditure Required, Amount Budgeted, Appropriation Required, and values: \$2,926.80, 0, \$2,926.80.

INFORMATION / BACKGROUND

The Slaybacks and Vasquezes have had a dispute regarding an alleged drainage problem on the Slayback property. The City became involved in 2005 when the City's inspector issued a Correction Notice requiring a drainage swale between the properties, and later determined that this was not a requirement of the code.

In 2006, the Slaybacks sued the Estates at Gig Harbor Homeowners' Association and the Vasquezes in Pierce County Superior Court. The City staff estimated that the cost of the fix to the drainage problem would cost approximately \$3,000.00. The parties reached a settlement of the lawsuit which included the City's offer to pay \$3,000.00 toward the improvement necessary to fix the drainage problem.

The parties hired contractor Bill Thomas of Fox Island to perform the work, and he agreed to perform the work for \$2,926.80. Therefore, the parties have executed the necessary Settlement, Release and Covenant Not to Sue in order to request that the City issue a check in this amount. Attached are copies of the signed Settlement, Release and Covenant Not to Sue.

FISCAL CONSIDERATION

The City will be required to issue a check in the amount of \$2,926.80 to Bill Thomas, contractor, after the work has been performed.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to sign the Settlement, Release and Covenant Not to Sue, and authorize the Finance Director to issue a check in the amount of \$2,926.80 to Bill Thomas, contractor, upon confirmation that the work has been performed.

SETTLEMENT, RELEASE AND COVENANT NOT TO SUE

This Settlement & Mutual Release Agreement ("Agreement") is entered by and between The City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Alfonso and Martha Vasquez, husband and wife (hereinafter the "Vasquezes"), whose address is 7386 North Creek Loop, Gig Harbor, Washington, and Douglas and Donna Slayback, husband and wife (hereinafter the "Slaybacks"), whose address is 7412 North Creek Loop, Gig Harbor, WA.

WHEREAS, the Vasquezes and Slaybacks have had a dispute regarding an alleged drainage problem on the Slayback property; and

WHEREAS, the City became involved in 2005 when the City's inspector issued a Correction Notice requiring a drainage swale between the properties, and later determined that this was not a requirement of the code; and

WHEREAS, the Slaybacks sued the Estates at Gig Harbor Homeowner's Association and the Vasquezes in Pierce County Cause No. 06-2-12060-0; and

WHEREAS, the City offered to contribute the cost of construction of a structure which would address the drainage problem, as shown in the attachment to the letter addressed to Jacob Potak and Jane Koler dated August 14, 2007, which was estimated to be Three Thousand Dollars (\$3,000.00), in exchange for their execution of a full release and covenant not to sue; and

WHEREAS, the parties reached a settlement of the lawsuit which includes the City's contribution of the cost of the drainage structure to remediate the problem; and

WHEREAS, the parties have hired Bill Thomas of Fox Island Landscaping, a contractor who has estimated that the cost of constructing the drainage structure is Two Thousand Nine Hundred Twenty-Six and 80/100 Dollars (\$2926.80); and

WHEREAS, the parties have agreed to hire this contractor to complete construction of the drainage structure, and to allow the City to pay for the cost of the drainage structure directly to the contractor, as long as such cost does not exceed the estimate of Two Thousand Nine Hundred Twenty-Six and 80/100 Dollars (\$2926.80); and

WHEREAS, the parties to this Agreement desire to resolve any and all disputes between them arising out of the above-described event; NOW, THEREFORE, in consideration of the agreements contained herein, the parties agree as follows:

Section 1. The Vasquezes and Slaybacks agree to accept and the City agrees pay to the contractor Bill Thomas of Fox Island Landscaping, upon receipt of its invoice accompanied by a letter(s) from both parties stating that the drainage structure has been constructed, the amount of Two Thousand Nine Hundred Twenty-Six and 80/100 Dollars (\$2926.80).

Section 2. The above Payment will be made by the City within thirty days after presentation of the invoice and letters described in Section 1 above.

Section 3. Except as otherwise provided in this Agreement, the Vasquezes and the Slaybacks, on behalf of themselves and their predecessors, successors, assigns, subsidiaries, affiliates, principals, partners, shareholders, directors, officers, agents, employees, representatives, contractors, subcontractors, attorneys and insurers, do hereby absolutely, fully and forever release, relieve, waive, relinquish and discharge the City hereto and its respective predecessors, successors, assigns, subsidiaries, affiliates, principals, partners, shareholders, directors, officers, agents, employees, representatives, contractors, subcontractors, attorneys and insurers, and all other individuals and affiliates representing or acting on behalf of any of the City, and each of them, from any and all Claims (as that term is defined below) which the Vasquezes or Slaybacks might have, own or hold, or at anytime heretofore had, owned or held, known or unknown or at anytime might hereafter acquire, own or hold, arising out of in connection with or in any way relating to the drainage problem referenced in the letter attached hereto as Exhibit A and the lawsuit *Slayback v. Estates at Gig Harbor, et al.*, Pierce County Superior Court Cause No. 06-2-12060-0.

Section 4. As used in this Agreement; the terms "Claim" and "Claims" mean any and all manner of action or actions, causes or causes of action, suits, damages (whether general, special or punitive), debts, liabilities, demands, obligations, costs, expenses, losses, attorneys fees (whether incurred prior to or after the effective date), liens, disputes with surety bonds, contractors, subcontractors and indemnities of every kind and nature whatsoever, whether known or unknown, suspected or unsuspected, and whether based on contract, tort, statute or any other legal or equitable theory of recovery, including the event described in the letter attached hereto as Exhibit A and the lawsuit *Slayback v. Estates at Gig Harbor, et al.*, Pierce County Superior Court Cause No. 06-2-12060-0.

Section 5. Covenant not to sue. Upon execution of this Agreement, the parties shall and hereby do, mutually release, and covenant not to sue the City, its officers, officials, employees or agents based on the Claim or any other claims, demands, controversies or suits of any kind or nature whatsoever, whether known or unknown, asserted or not asserted, foreseen or unforeseen, whether past, present or future, pertaining to or arising from the Claim.

Section 6. Representation by Counsel. The parties acknowledge that each of them has been represented by counsel in the negotiation and preparation of this Agreement. The parties further acknowledge that they have participated equally in negotiating the terms of this Agreement, and the parties agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applicable in the interpretation of this Settlement Agreement.

Section 7. Agreement Not Enforceable by Third Parties. This Agreement is neither expressly nor impliedly intended for the benefit of any third party and is neither expressly nor impliedly enforceable by any third party.

Section 8. Representations. The Parties acknowledge that no other person or entity, nor any agent or attorney of any person or entity, has made any promise, representation or warranty whatsoever, express or implied, not contained in this Agreement concerning the subject matter hereof, to induce the Parties to execute this Agreement. The Parties further acknowledge that they have not executed this Agreement in reliance on any such promise, representation, or warranty not contained herein.

Section 9. Authority to Execute. Each person executing this Agreement on behalf of another person, corporation, partnership, company, or other organization or entity, represents and warrants that he or she is fully authorized to execute and deliver this Agreement on behalf of the entity or Party for which he or she is signing.

Section 10. Voluntary Execution. In executing this Agreement, the Parties acknowledge that they have consulted with their duly licensed and competent attorneys, and that they have executed this Agreement after independent investigation, voluntarily and without fraud, duress or undue influence, and they exclusively consent that this Agreement be given full force and effect according to each and every one of its express terms and provisions.

Section 11. Governing Law; Binding Effect. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. This Agreement shall be binding upon the parties hereto and their respective heirs, executors, personal representatives, successors and assigns, as well as all persons now or hereafter holding or having any or part of the interest of a Party to this Agreement.

Section 12. Time is of the essence in each and every covenant and condition in this Agreement.

Section 13. In the event of litigation between the parties hereto, declaratory or otherwise, in connection with or arising out of this Agreement, the prevailing party shall recover its costs, including experts' fees, and reasonable attorneys' fees, which shall be determined and fixed by the court as part of the judgment.

Section 14. This Agreement may be executed in any number of counterparts, and all counterparts shall be deemed to constitute a single agreement. The execution and delivery of any counterpart by any person shall have the same force and effect as if that person had executed and delivered all other counterparts. The electronic facsimile transmittal of a copy hereof bearing any person's signature shall have the same force and effect as the physical delivery to the same recipient of copy hereof bearing such person's original signature. Any signature page hereof may be detached from any counterpart hereof and attached to another counterpart identical in form and content hereto, but having attached to it on or more additional signature pages, without impairing the legal effect of any signatures thereon.

Section 15. Each party shall bear and be responsible for its respective attorneys' fees and costs associated with executing this Agreement.

Section 16. The parties agree that by entering into this Agreement no party admits any wrongdoing or liability of any type. Rather, the parties have entered this Agreement as a result of settlement and compromise of disputed and controverted claims and nothing herein is to be construed as an admission of liability.

Section 17. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by both parties. However, the parties agree to cooperate and execute any supplementary documents which may be necessary to give full force and effect to the intent of this Agreement.

Section 18. This agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby terminated and canceled in their entirety and are of no further force or effect.

IN WITNESS WHEREOF, the parties enter into this Agreement on the date written below.

By Alfonso Vazquez DATE: 5/1/08
ALFONSO VAZQUEZ

By Martha Vazquez DATE: 5/1/08
MARTHA VAZQUEZ

By _____ DATE: _____
DOUGLAS SLAYBACK

By _____ DATE: _____
DONNA SLAYBACK

THE CITY OF GIG HARBOR

By _____ DATE: _____
Its Mayor

ATTEST:

 Molly Towslee, City Clerk

APPROVED AS TO FORM:

 Carol A. Morris, City Attorney

STATE OF WASHINGTON)
) ss.
 COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Alfonso Vazquez is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 5-1-08

Cheryl E. Prihar
 My appointment expires 02-03-09



STATE OF WASHINGTON)
) ss.
 COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Martha Vazquez is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 5-1-08

Cheryl E. Prihar
 My appointment expires 02-03-09



Section 15. Each party shall bear and be responsible for its respective attorneys' fees and costs associated with executing this Agreement.

Section 16. The parties agree that by entering into this Agreement no party admits any wrongdoing or liability of any type. Rather, the parties have entered this Agreement as a result of settlement and compromise of disputed and controverted claims and nothing herein is to be construed as an admission of liability.

Section 17. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by both parties. However, the parties agree to cooperate and execute any supplementary documents which may be necessary to give full force and effect to the intent of this Agreement.

Section 18. This agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby terminated and canceled in their entirety and are of no further force or effect.

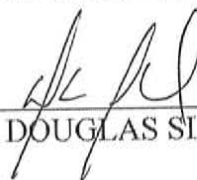
IN WITNESS WHEREOF, the parties enter into this Agreement on the date written below.

By _____
ALFONSO VASQUEZ

DATE: _____

By _____
MARTHA VASQUEZ

DATE: _____

By  _____
DOUGLAS SLAYBACK

DATE: 01 MAY 08

By  _____
DONNA SLAYBACK

DATE: 02 May 08

THE CITY OF GIG HARBOR

By _____
Its Mayor

DATE: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Douglas Slayback is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 5/1/08

Kim L Melton
My appointment expires 5-29-09



STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Donna Slayback is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 5/2/08

Kim L Melton
My appointment expires 5-29-09



STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

DATED: _____

My appointment expires _____



Subject: Transportation Capacity Availability Report and Traffic Model
-- Consultant Services Contract

Proposed Council Action: Authorize the Mayor on behalf of Council to execute a Consultant Services Contract with PTV America, Inc.

Dept. Origin: Engineering Division

Prepared by: Stephen Misiurak, P.E.
City Engineer

For Agenda of: May 27, 2008

Exhibits: Consultant Services Contract

Initial & Date

Concurred by Mayor:

CMH 5/13/08

Approved by City Administrator:

PK 5/13/08

Approved as to form by City Atty:

CAM 5/13/08

Approved by Finance Director:

NOT HERE

Approved by Department Head:

AZ FOR STEVE

Expenditure		Amount		Appropriation	
Required	\$36,000.00	Budgeted	\$100,000.00	Required	\$36,000.00

INFORMATION / BACKGROUND

As a budget objective for this year, the City will perform and annually update the City-wide traffic capacity report and city-wide traffic model. This information will serve as the basis for the calculation of traffic impact fees and will be used in the evaluation of traffic impacts to city facilities from future developments. Transportation improvements needed to serve the City's 20-year growth will be identified and prioritized. The project list and prioritization will also be used to develop both the City's Six-Year and Twenty-Year Transportation Improvement Program (TIP).

PTV will help us with the traffic modeling of the City and the surrounding area to include major route choice points. The goals include focused assistance and long-range planning efforts. A primary objective is to have City staff proficient in implementing the model independently for these work tasks. PTV will organize and instruct custom training using the Gig Harbor travel demand model. We will recalibrate and validate the model with new vehicle count and/or travel survey data, as requested. This may require an update of trip generation rates which may be revised during the actual calibration according to the results of the calibration runs. The external traffic counts, PSRC model, and previous Gig Harbor model will be used as the starting place for the evaluation and updating of external traffic, as requested. Validation will match the limits imposed by graphs on allowable screenline calibration errors and allowable link calibration errors. PTV America will provide assistance with model coding efforts on projects as needed, not part of a custom training effort. They will assist with scenario evaluation, including graphic layouts and data input and output of the model for both base and forecast years. Intersection geometry and timing detail may be added for use in intersection

Level of Service analysis, as requested. These enhancements will also be useful for future microsimulation using the current model and forecasts. The model and modeling process will be documented by PTV and all quantification of assumptions will be summarized for requested efforts. Documentation provided will allow a knowledgeable VISUM modeler to repeat all the processes undertaken and to run alternative scenarios based on the information it contains along with the set of computer files.

FISCAL CONSIDERATION

Funding for this work is included under the Transportation Capacity Availability Report and Traffic Model budget item number 3 in the Street Capital Fund in the amount of \$100,000.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the Mayor on behalf of Council to execute the Consultant Services Contract with PTV America, Inc. in the not-to-exceed amount of thirty-six thousand dollars and no cents (\$36,000.00).

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
PTV AMERICA, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and PTV America, Inc., a corporation organized under the laws of the State of Washington, located and doing business at PO Box 1850, Vashon, Washington 98070-1850 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the transportation capacity availability report and traffic model and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated May 2008 including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Work**, and are incorporated by this reference as if fully set forth herein.

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

TERMS

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Thirty Six Thousand Dollars and Zero Cents (\$36,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by May 30, 2009; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If delivered to consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records

and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

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

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

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

VIII. Insurance

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

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

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

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Gig Harbor shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

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

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Engineer's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT
Robert Shull, P.E., Vice President
PTV America, Inc.
PO Box 1850
Vashon, Washington 98070-1850
(206) 463-3768, Ext. 303

Stephen Misiurak, P.E.
City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335
(253) 851-6170

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification

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

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 200__.

CONSULTANT
By: *Robert M. Shull*
Its Vice President

CITY OF GIG HARBOR
By: _____
Mayor

Notices to be sent to:
CONSULTANT
Robert Shull, P.E., Vice President
PTV America, Inc.
PO Box 1850
Vashon, Washington 98070-1850
(206) 463-3768, Ext. 303

Stephen Misiurak, P.E.
City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335
(253) 851-6170

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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

Dated: _____

_____ (print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at:

My Commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

Dated: _____

_____ (print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

Exhibit A
SCOPE OF WORK

City of Gig Harbor – Update Model and On-call Professional Services
May 2008

The documentation task is described at the end of this section. However, this task is intended to be ongoing throughout the project. It is anticipated that we will work closely with City of Gig Harbor staff to maximize the technology transfer and to insure that staff provides input on and is aware of all model assumptions.

Project Parameters

The goals of the on-call agreement will be discussed with City of Gig Harbor staff and documented so there is a clear understanding of the future and desired uses of the model. These are currently understood to model the City of Gig Harbor, Washington and the surrounding area to include major route choice points. The goals include focused assistance with modeling to help Gig Harbor staff to use the model for their concurrency, capital program, and long-range planning efforts. A primary objective is to have city staff proficient in implementing the model independently for these work tasks.

Develop Updated Model & On-Call Tasks

The model will be updated as necessary to reflect changes in land use and transportation facilities. As a part of the on-call relationship, PTV may be asked by Gig Harbor staff to perform the following tasks as a part of the on-call agreement:

Organize and instruct custom training using the Gig Harbor travel demand model
(estimated effort: 60 hours Project Manager)

Recalibrate and validate the model with new vehicle count and/or travel survey data, as requested. This may require an update of trip generation rates may be revised during the actual calibration according to the results of the calibration runs. The external traffic counts, PSRC model, and previous Gig Harbor model will be used as the starting place for the evaluation and updating of external traffic, as requested. Validation will match the limits imposed by graphs on allowable screenline calibration errors and allowable link calibration errors in NCHRP 255 (pp 41, 49).

(estimated effort: 20 hours Principal, 32 hours Project Manager, 18 hours Associate)

Provide assistance with model coding efforts on projects as needed, not part of custom training effort

(variable: depends on type, number of scenarios and scope of effort, but billed at Associate rate)

Assist with scenario evaluation, including graphic layouts and data input and output of the model for both base and forecast years

(estimated effort: 4 hours Associate and 2.5 Project Manager per scenario)

Intersection geometry and timing detail may be added for use in intersection Level of

Service analysis, as requested. These enhancements will also be useful for future micro-simulation using the current model and forecasts as well as.
(estimated effort: 6 hours Associate for 12 signalized intersections)

The model and the modeling process will be documented by PTV and all quantification of assumptions will be summarized for requested efforts. Documentation provided will allow a knowledgeable VISUM modeler to repeat all the processes undertaken and to run alternative scenarios based on the information it contains along with the set of computer files.
(estimated effort: included in individual budget items)

PTV staff is available to attend project meetings and meet with City of Gig Harbor staff on modeling related tasks as a part of the on-call agreement. Direct expenses in addition to the hourly rate would be billable under this task.
(estimated effort: variable as requested by the city)

Exhibit B

BUDGET and SCHEDULE

The proposed budget for this project is presented in the following table. Work will be billed monthly based upon time and materials with a budget not to exceed \$36,000 for professional on-call transportation demand model consulting services for one year after the contract is initiated.

Invoices will be submitted monthly per the contract. Rate ranges are shown in the following table and will be billed at actual PTV America, Inc. audited rates. The intention is that the effort outlined in this scope of work will be conducted by PTV America Inc. staff in the Vashon-Tacoma office.

City of Gig Harbor - On-Call Rates for 2008-2009			
	Principal	Project Manager	Associate
Range	\$200-\$225	\$110-\$130	\$85-\$110



Subject: Amendment to Consultant Services Contract for Eddon Boatyard Park

Proposed Council Action: Authorize the Mayor on behalf of Council to execute a Consultant Services Contract Amendment with Anchor Environmental, LLC in the amount of \$112,108.00.

Dept. Origin: Engineering Division

Prepared by: Stephen Misiurak, P.E. City Engineer

Handwritten signature of Stephen Misiurak

For Agenda of: May 27, 2008

Exhibits: Contract Amendment to Consultant Services Contract

Concurred by Mayor: Initial & Date, CLH 5/21/08
Approved by City Administrator: PAK 5/21/08
Approved as to form by City Atty: CAM 5/20/08
Approved by Finance Director: [Signature] 5/21/08
Approved by Department Head: [Signature] 5/20/08

Table with 5 columns: Expenditure Required, Amount Budgeted, Appropriation Required, and two empty columns. Values: \$112,108.00, \$750,000.00, 0.

INFORMATION / BACKGROUND

The proposed Contract Amendment #10, in the amount of \$112,108.00 provides additional funding for additional project management and strategy development, supplemental permitting of a memorandum of agreement for a deconstruction plan, Agreed Order with the Washington State Department of Ecology and Cleanup Action Plan development, ecosystem evaluation, design and construction documents, bid assistance and field inspections for the property commonly known as Eddon Boatyard. It is anticipated that the remediation and clean-up work will begin this summer and continue into the fall of 2008.

FISCAL CONSIDERATION

Previous contract amendments one through nine amounted to \$482,195.00. Adequate funds exist from the seller's clean-up Remediation Escrow Account to fund this amendment. Approval of this contract amendment revises the total contract amount to Anchor Environmental, LLC in the amount not to exceed \$594,303.00.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the Mayor on behalf of Council to execute the Contract Amendment with Anchor Environmental in the amount of One Hundred Twelve Thousand One Hundred Eight Dollars and No Cents (\$112,108.00).

**TENTH AMENDMENT TO CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
ANCHOR ENVIRONMENTAL, LLC**

THIS TENTH AMENDMENT is made to the AGREEMENT, dated December 13, 2004, subsequent AMENDMENT #9, dated September 10, 2007, subsequent AMENDMENT #8, dated June 25, 2007, AMENDMENT #7, dated February 12, 2007, AMENDMENT #6, dated December 11, 2006; AMENDMENT #5, dated October 9, 2006; AMENDMENT #4, dated July 24, 2006; AMENDMENT #3, dated October 10, 2005, AMENDMENT #2, dated April 25, 2005, and AMENDMENT #1, dated February 14, 2005 by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Anchor Environmental, LLC, a limited liability corporation organized under the laws of the State of Washington, located and doing business at 1423 Third Avenue, Suite 300, Seattle, Washington 98101 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the project management and strategy development, supplemental permitting a memorandum of agreement for a deconstruction plan, Agreed Order with the Washington State Department of Ecology and Cleanup Action Plan development, ecosystem evaluation, design and construction documents, bid assistance and field inspections for the property commonly known as Eddon Boatyard and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agreed to perform the services, and the parties executed an Agreement on December 13, 2004, (hereinafter the "Agreement"); and

WHEREAS, the existing Agreement requires the parties to execute an amendment to the Agreement in order to modify the scope of work to be performed by the Consultant, or to exceed the amount of compensation paid by the City;

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

Section 1. **Amendment to Scope of Work.** Section I of the Agreement is amended to require the Consultant to perform all work described in **Exhibit A**, attached to this Amendment, which Exhibit is incorporated herein as if fully set forth.

Section 2. **Amendment to Compensation.** Section II(A) of the Agreement is amended to require the City to pay compensation to the Consultant for the work described in **Exhibit A dated May 12, 2008**, to the Amendment in the amount of One Hundred Twelve Thousand One Hundred Eight Dollars and No Cents (\$112,108.00). This Amendment shall not modify any other of the remaining terms and conditions in Section II, which shall be in effect and fully enforceable.

Section 3. **Effectiveness of all Remaining Terms of Agreement.** All of the remaining terms and conditions of the Agreement between the parties shall be in effect and be fully enforceable by the parties. The Agreement shall be incorporated herein as if fully set forth, and become a part of the documents constituting the contract between the parties.

Section 4. **Duration of Work.** Section IV of the Agreement is amended to agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement and the parties agree that the work described in **Exhibit A** shall be completed by December 31, 2008; provided however, that additional time shall be granted by the City for excusable days or extra work.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2008.

By: 
Its Principal

THE CITY OF GIG HARBOR

By: _____
Mayor

Notices to be sent to:

CONSULTANT
Anchor Environmental, LLC
Attn: David Templeton, Partner
1423 Third Avenue, Suite 300
Seattle, Washington 98101
(206) 287-9130

Stephen Misiurak, P.E.
City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335
(253) 851-6170

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

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

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____



Anchor Environmental, L.L.C.
1423 Third Avenue, Suite 300
Seattle, Washington 98101
Phone 206.287.9130
Fax 206.287.9131

May 12, 2008

Mr. Steve Misiurak
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

**Re: Exhibit A – Addendum No. 10 to Scope of Work
Eddon Boatyard Property**

Dear Mr. Misiurak:

The purpose of this letter is to provide the City of Gig Harbor (the City) with a request from Anchor Environmental, L.L.C. (Anchor), for additional funding for work on the Eddon Boatyard Property. This additional funding is largely due to the decision to enter into an Agreed Order (AO) with Washington State Department of Ecology (Ecology) and delays in receipt of permits from the U.S. Army Corps of Engineers (Corps), which in turn required the bid process to be re-started. We have also included budget for additional activities required by the final permits (e.g., Deconstruction Plan, Level II Recordation).

Table 1 summarizes our current request for authorization. The details for each request are provided in the sections following Table 1 and in Table 2.

**Table 1
Budget Summary**

Bill Group	Task No.	Description	Activity	Original Budget	Revised Budget	Current Request
01	1	Project Management and Strategy Development	For 2008 activities – Includes the preparation of the remedial action grant, City meetings, and related discussions.	\$80,000	\$87,955	\$7,955
	6e	Supplemental Permitting: MOA Deconstruction Plan	As required by §106 Memorandum of Agreement.	-----	\$5,497	\$5,497
	10	AO and Cleanup Action Plan Development	Includes the preparation of an AO/DCAP, negotiation with Ecology, and public involvement elements; specific activities include a disproportionality assessment, as required by MTCA, for soils at AG-9	-----	\$13,030	\$13,030
	11	MTCA Terrestrial Ecosystem Evaluation	As required by MTCA, develop and prepare Technical Memorandum No. 10, and address Ecology comments for inclusion into the DCAP	-----	\$10,971	\$10,971
02	1	Design and Construction Documents	Addresses Addenda No. 1, 2, 3, and 4 (completed).	\$103,000	\$120,980	\$17,980
	2a	Bid Assistance	2008 Re-bid process	\$6,680	\$25,045	\$18,365
	2e	Field Inspections	Cultural resources oversight, and expanded sediment, soil, and water quality monitoring requirements. Also includes Level II Recordation photos and memorandum.	\$48,806	\$87,116	\$38,310
Totals				\$238,486	\$350,594	\$112,108

Notes: DCAP = Draft Cleanup Action Plan - MTCA = Model Toxics Control Act

BILL GROUP 01, TASK 1 – PROJECT MANAGEMENT AND STRATEGY DEVELOPMENT

This scope item covers Anchor’s ongoing management through 2008, oversight, and consultation in support of the various phases of the Eddon Boatyard Project (Project), which include:

- Interactions with Ecology and other regulatory agencies to ensure their understanding and approval of Project goals
- Ensuring that agency expectations are defined and documented prior to and during the construction process
- Supporting the City in its cost allocation and related dealings with Harbor Cove
- Engaging the City in Project-related discussions and decision-making
- Managing subconsultants

**BILL GROUP 01, TASK 6E – SUPPLEMENTAL PERMITTING: MOA
DECONSTRUCTION PLAN**

A Memorandum of Agreement (MOA) between the Corps and Washington Department of Archaeology and Historic Preservation (WADAHP) stipulates requirements associated with ground-disturbing activities and deconstructing the timber pier, boat cradles, and marine rails at the Project site since portions of the Project site and its structures are considered to be artifacts with some historic and cultural value. Among other requirements, the MOA requires that a Deconstruction Plan be developed and submitted to WADAHP for a 30-day review and comment period before the deconstruction can take place.

Anchor proposes to formulate this document and submit it to the Corps and WADAHP for approval prior to the Project's commencement in the field. This would avoid delays to the Project that would otherwise be possible if this Deconstruction Plan were to be prepared by the selected contractor.

BILL GROUP 01, TASK 10 – AO AND CLEANUP ACTION PLAN DEVELOPMENT

Anchor will work closely with Ecology to develop an AO and Cleanup Action Plan (CAP), which documents how the Project will comply with Ecology's remedial action requirements under the Voluntary Cleanup Program. This task includes the following efforts related to the AO and CAP:

- Ongoing communications and meetings with Ecology regarding strategies for cleanup action and content of these documents
- Preparation and production of draft documents for City and Ecology review and approval
- Public comment elements
- Alternatives analysis for the AG-9 area including a disproportionality assessment as required by Model Toxics Control Act (MTCA)
- Preparation and production of the final version of the document

BILL GROUP 01, TASK 11 – MTCA TERRESTRIAL ECOSYSTEM EVALUATION

This task (and budget request) includes the development and preparation of Technical Memorandum No. 10 and the incorporation of Technical Memorandum No. 10 into the CAP. Under this task, Anchor will also address comments made by Ecology.

BILL GROUP 02, TASK 1 – DESIGN AND CONSTRUCTION DOCUMENTS

Anchor completed the contract documents in November 2007. Since that time, Anchor has completed and distributed four addenda for the Project:

- Addendum No. 1 (November 30, 2007)
- Addendum No. 2 (December 6, 2007)
- Addendum No. 3 (January 3, 2008)
- Addendum No. 4 (April 2, 2008)

In April 2008, Anchor also prepared a revised Invitation to Bidders. This task covers the preparation, production, and distribution of these addenda, and includes additional budget in case a fifth addendum is needed.

BILL GROUP 02, TASK 2A – BID ASSISTANCE

Because of the fact that the Project was re-advertised and is currently being re-bid, Anchor has expended its original authorization for bid assistance. Authorization of this task will allow Anchor to continue with bid support and assistance for the new bid preparation and bid opening schedule.

BILL GROUP 02, TASK 2E – FIELD INSPECTIONS

The MOA (mentioned previously) requires specific documentation of the deconstruction of the pier and marine structures in accordance with the WADAHP's Level 2 Recordation Standards. Anchor proposes to fulfill this role as part of our on-site involvement during construction. This task covers including this work as an additional task to our previously authorized construction management scope and authorization. If, after receipt and review of the ACC's construction schedule, it is determined that our assumption for on-site construction management (we assumed 8 weeks) is insufficient, we will discuss options with the City at that time. In addition, Anchor will subcontract with Cultural Resource Consultants (CRC) to provide

Mr. Steve Misiurak
May 12, 2008

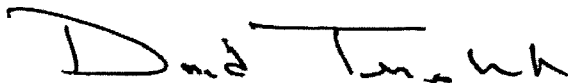
construction inspections and reporting as required by the MOA. CRC's scope for these activities was part of a previous request and was provided under separate cover.

Anchor will also finalize negotiation of the Sediment and Water Quality Monitoring Plan (required by the 401 Water Quality Certification) and perform confirmatory sediment sampling of selected dredge areas with the expanded sediment quality monitoring parameters required by Ecology. We have also included confirmation soil sampling at AG-9 and AHA-1 Areas. These action items are covered under this task as additions to our previously authorized construction management task. Analytical Resources, Incorporated has provided a quotation for services which is attached, respectively.

All travel times to and from the City will be computed from the time the consultant crosses over Pierce County's border, as the City will not pay for travel time beyond that point. If this Scope of Work meets the City's needs, we will assume that the City will prepare the necessary contract amendments. We propose to continue to perform these tasks on a time and material and not-to-exceed basis as an amendment to our existing Consultant Services Agreement with the City dated December 13, 2004. If the Project conditions change outside the assumptions discussed above, Anchor will work with you to re-scope the necessary Project elements.

Please feel free to contact me at (206) 910-4279 or dtempleton@anchorenv.com with questions.

Sincerely,



David Templeton, Partner
Anchor Environmental, L.L.C.

Attachments:

Table 2 – Estimated Costs Summary
Quotation for Services from Analytical Resources, Incorporated

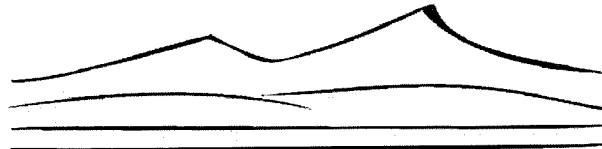
ANCHOR ENVIRONMENTAL, L.L.C.
2008 PROJECT COST ESTIMATING FORM

Cost Estimating Table Addendum 10 05_20_08.xls

Proposal/Project Name: City of Gig Harbor 040892-02
05/01/08 Eddon Boatyard Property David Templeton

- Task 1 Project Management and Strategy Development
- Task 6e Supplemental Permitting: MOA Deconstruction Plan
- Task 10 Agreed Order and Cleanup Action Plan Development
- Task 11 MTCA Terrestrial Ecosystem Evaluation
- Task 1 Design and Construction Documents (BG 02)
- Task 2a Bid Assistance
- Task 2e Field Inspections

Labor Categories	Billing Rate	Task 1	Task 6e	Task 10	Task 11	Task 1	Task 2a	Task 2e	Total Hours	Total Dollars
Principal	\$ 185	43	0	50	4	20	21	16	154	\$ 28,490
Sr Project Manager	\$ 170	0	0	0	0	0	0	0	0	\$ -
Project Manager	\$ 152	0	10	0	12	40	40	0	102	\$ 15,428
Senior Engr/LA/Plan/Sci	\$ 132	0	0	0	0	0	0	0	0	\$ -
Staff 3 Engr/LA/Plan/Sci	\$ 115	0	0	0	50	0	0	0	50	\$ 5,750
Staff 2 Engr/LA/Plan/Sci	\$ 105	0	30	0	0	60	80	60	230	\$ 24,150
Staff 1 Engr/LA/Plan/Sci	\$ 95	0	0	0	0	0	0	0	0	\$ -
Senior Design/CAD	\$ 95	0	0	24	20	20	0	20	84	\$ 7,980
Design/CAD	\$ 80	0	0	0	0	0	0	0	0	\$ -
Project Coordinator (PC/PA)	\$ 75	0	0	20	10	0	0	42	72	\$ 5,400
Project Coordinator (Admin)	\$ 75	0	0	0	0	0	0	0	0	\$ -
Field Technician	\$ 80	0	0	0	0	0	0	0	0	\$ -
		0	0	0	0	0	0	0	0	\$ -
Total Hours		43	40	94	96	140	141	138	692	
Total Labor		\$ 7,955	\$ 4,670	\$ 13,030	\$ 10,888	\$ 17,980	\$ 18,365	\$ 14,310		\$ 87,198
Average Hourly Rate	\$ 126									
Subconsultants										
Cultural Resource Consultants		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,000		\$ 9,000
ARI Initial Round - Sediment		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,000		\$ 7,000
ARI Subsequent Round - Sediment		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
ARI - Soil		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,000		\$ 4,000
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Total Cost		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000		\$ 20,000
Markup	10.0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,000		\$ 2,000
Reimbursables										
CAD/Computer (\$/hr)	\$10.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Mileage (\$/mile)	\$0.505	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Copies (\$/copy)	\$0.10	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Anchor boat (\$/day)	\$300	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 900		\$ 900
Faxes (\$/fax)	\$1.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Outside Expenses										
Vehicle Rental		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Repro/Plotting		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Mail/Fedex/Courier		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Travel		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Hotel/Per Diem		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Miscellaneous		\$ -	\$ 752	\$ -	\$ 75	\$ -	\$ -	\$ 500		\$ 1,327
Total Cost		\$ -	\$ 752	\$ -	\$ 75	\$ -	\$ -	\$ 1,400		\$ 2,227
Markup	10.0%	\$ -	\$ 75	\$ -	\$ 8	\$ -	\$ -	\$ 50		\$ 133
Field Equipment and Supplies Summary										
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 500		\$ 500
Markup	10.0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50		\$ 50
TOTAL COSTS		\$ 7,955	\$ 5,497	\$ 13,030	\$ 10,971	\$ 17,980	\$ 18,365	\$ 38,310		\$ 112,108



WESTERN SHORE HERITAGE SERVICES, INC.

PROJECT SCOPE AND FEE AGREEMENT

CLIENT:	Anchor Environmental, LLC
PROJECT:	Eddon Boatyard
LOCATION:	Gig Harbor, Washington
ANTICIPATED PROJECT DATES:	May - August 2008

The Eddon Boat Park site is on the shore of Gig Harbor and includes the properties at 3711 and 3805 Harborview Drive (and adjacent properties), in the City of Gig Harbor, Washington. The site includes an uplands area and both subtidal and intertidal sediments. Primary use of the north part of the site was for a boat repair facility and residence. The south part formerly contained two buildings (demolished in 2006) that were used as a city maintenance shop and an office for a gravel loading operation that operated at the site. The boat repair facility included two marine railways, a boat repair building, and a dock (facilities still present but not actively in use). Anchor Environmental is contracting with the City of Gig Harbor to complete The Eddon Boatyard Sediment Cleanup project that will include the following elements:

- Demolish the marine railways and pier (including creosoted pilings)
- Remove gangway and floating dock (will be re-installed after work is complete)
- Remove contaminated sediments to a depth of 2 to 3 feet below the existing surface in the vicinity of the marine railway and pier, with backfill of clean material to existing grade
- Remove contaminated sediments to a depth of 2 to 3 feet below the existing surface in the vicinity of sample locations AS-1 and AS-4/SG-4, with backfill of clean material to existing grade
- Remove contaminated sediments to a depth of 2 to 3 feet below the existing surface in the outer marine railway and pier areas, without backfill to existing grade
- Performance sampling in dredged areas that will not receive backfill to ensure that cleanup levels are achieved
- Construction of an engineered cap consisting of 1 foot thickness of sand covered by 6 inches of a habitat-suitable gravel, to the south of the pier/floating dock structure, and east and northeast of the dredged area near the floating dock
- Remove creosoted bulkhead and re-grade slope
- Rebuild marine railway and pier

Anchor Environmental is requesting a cultural resources assessment to satisfy Section 106 requirements and documentation of historic structures within the project area. Western Shore Heritage Services, Inc. (WSHS) will provide the following project components as part of this cultural resources assessment.

8001 DAY ROAD WEST, SUITE B, BAINBRIDGE ISLAND, WA 98110
 PHONE 206.855.9020 FAX 206.855.9081
 info@wshsinc.com

Background Research: WSHS will conduct a recorded sites files search at the Washington Department of Archaeology and Historic Preservation (DAHP); review of relevant correspondence between the project proponent, stakeholders and DAHP; and, review of pertinent environmental, archaeological, ethnographic and historical literature appropriate to the project area. WSHS will review geotechnical data and examine core logs.

Tribal Contact: WSHS will contact the cultural resources staff of the affected Tribes on a technical staff-to-technical staff basis for relevant project information. It is the responsibility of the governmental lead agency to consult with any involved tribes and to coordinate with tribal representatives regarding archaeological and cultural resources in or near the project area.

Field Identification: WSHS will provide a field inventory of the project location for identification of archaeological and historical resources and, if necessary, excavation of shovel test probes or other exploratory excavations in environments that might contain buried archaeological deposits. Field methods will be consistent with DAHP guidelines.

APE Determination: WSHS will assist Anchor with the determination of the Area of Potential Effect (APE) according to DAHP guidelines.

Documentation of Findings: WSHS will review historic site forms currently filed with DAHP. WSHS will document and record any additional historic properties within the project area, including preparation of Washington State archaeological and/or historic site(s) forms and National Register of Historic Places Determination of Eligibility forms (as appropriate). Documentation will be consistent with DAHP standards.

Cultural Resources Assessment Report: WSHS will prepare a report describing background research, field methods, results of investigations, and management recommendations. The report will provide supporting documentation of archaeological findings, including maps and photographs, and will conform to DAHP reporting standards.

Field Monitoring: WSHS will provide archaeological field monitoring during removal of contaminated soils, as required, with 48 hours notice. Due to the environmental contaminants, monitoring will be provided by a HAZWOPER certified archaeologist.

Monitoring Report: WSHS will prepare a monitoring report after all required monitoring is completed.

If extensive archaeological deposits are encountered within the project area it may be necessary to modify this agreement to accommodate additional investigations for purposes of site identification (i.e., additional shovel testing and/or evaluative excavations).

WSHS will complete the field investigation within 30 days of this signed contract. A cultural resources assessment report will be submitted within 30 days of fieldwork completion. Field Monitoring will be scheduled according with the project schedule and with 48 hours notice of required monitoring.

In order to provide Anchor Environmental with the most effective services, WSHS requires the following information prior to commencing work on this project:

- Description of the project scope in plain English. This should include a statement defining the overall goal of the project; expected dates of initiation and completion; general methodologies proposed for ground disturbing/construction operations; and projected means to address any environmental mitigation requirements.
- Relevant project plans, blueprints, maps, construction drawings, and as-built schematics, as appropriate. Preferably in PDF format, if available.
- Indication of locations ancillary to the specific project area, but which will be used for any construction equipment staging, utility conduits, refuse disposal, or project environmental mitigation sites.
- Name of the federal, state, or local agency that grants funds, issues permits, or provides government oversight over the project.
- Documentation of communication with the Washington State Department of Archaeology and Historic Preservation.
- Documentation of consultation with affected Indian Tribe(s) and other Stakeholders. Consultation must be initiated by the project proponent, lead government agency, and/or local municipality.
- Name of project area land management agency and contact information (if public property); name of land owner and contact information (if private property).

FEE

The fee for services described above is anticipated to be less than \$11,975.00.



Analytical Resources, Incorporated
Analytical Chemists & Consultants

Quotation For Analytical Services

Quoted To: Joy Dunay
 Company: Anchor Environmental, LLC
 Address: 1423 3rd Ave, Suite 300
 City: Seattle State: WA
 Phone: 206-903-3320 Zip: 98101
 email: jdunay@anchorenv.com

Date: 5/13/2008 SD051308A

Project: Eddon Rushes

Analytical Parameter	Sample Matrix	Method Description	No. Samples	* TAT (business)	Unit Cost	Total Cost
Total Solids	Sediment	160.3M	4	3 days	\$10.00	\$40.00
Wet Wash #200	Sediment	PSEP	4	3 days	\$70.00	\$280.00
Grainsize	Sediment	PSEP	4	3 days	\$180.00	\$720.00
Total Organic Carbon	Sediment	Plumb/PSEP	4	3 days	\$54.00	\$216.00
PP Metals	Sediment	6010/7471	4	3 days	\$248.00	\$992.00
Bulk TBT	Sediment	Krone/8270-sim	4	3 days	\$446.00	\$1,784.00
Porewater TBT	Sediment	ACOE/Krone	4	3 days	\$620.00	\$2,480.00
Semivolatiles (20 ug/kg)	Sediment	8270	4	3 days	\$525.00	\$2,100.00
SIM - SVOC	Sediment	8270-SIM	4	3 days	\$332.50	\$1,330.00
Aroclor-PCB (10 ug/kg)	Sediment	8082	4	3 days	\$259.00	\$1,036.00

* TAT is to data and EDD.

^a As,Cd,Cr,Cu,Pb,Ag,Zn by ICP, Hg by CVA

1. Costs include standard laboratory QA (MB, LCS) at no sample charge. Matrix specific QC charged at sample rate for batches of less than 6 samples of the same matrix, and at 1/2 sample rate for batches of 7-10 samples. Subcontractors may also charge additional for project-specific QC which may not be addressed here.
2. Costs include validatable data package in hardcopy within 21 calendar days and PDF format and a single electronic deliverable. Additional EDD formats charged at 4% analytical.
3. Costs include bottle kits except as listed above, sample storage up to 90 days and disposal of non-hazardous samples. Please contact ARI for pricing on longer storage.
4. Costs include sampling kit shipped ground. Client is responsible for cost of expedited shipping for orders not received in a timely manner. Client is responsible for shipping of samples to laboratory.
5. Turn-around time based on business days beginning from date of receipt or analysis request, whichever is later, excluding Holidays. Turn around for samples received after 3:00 p.m. or on weekends will be calculated beginning the next business day.
6. DQOs based on ARI limits. Please see our website at www.arilabs.com for MDLs and Control Limits.
7. Samples received on hold will be billed a handling fee of \$25 per sample unless quoted above.

ARI reserves the right to review and modify pricing if the scope of work is modified, including the number of samples, requested analyses, holding time, turn-around-time, and deliverables.

SUBMITTED BY:
Susan D. Dunnihoo (electronic)
 Susan Dunnihoo, CS Manager
 Analytical Resources, Inc.

This quotation is valid for 120 days.
5/13/2008
 Date



Subject: Stormwater Comprehensive Plan Update - Contract with PACE Engineers, Inc.

Proposed Council Action: Authorize the Consultant Services Contract with PACE Engineers, Inc. for the Stormwater Comprehensive Plan Update in the amount-not-to-exceed \$100,000.00.

Dept. Origin: Engineering Division

Prepared by: Stephen Misiurak, P.E. City Engineer

For Agenda of: May 27, 2008

Exhibits: Consultant Services Contract

Initial & Date

Concurred by Mayor: [Signature] 5/21/08
Approved by City Administrator: [Signature] 5/21/08
Approved as to form by City Atty: [Signature]
Approved by Finance Director: [Signature] 5/21/08
Approved by Department Head: [Signature]

Table with 3 columns: Expenditure Required, Amount Budgeted, Appropriation Required. Values: \$100,000.00, \$100,000.00, 0.

INFORMATION / BACKGROUND

A 2008 Stormwater Operating Budget Objective provides funding for the preparation of the City's Stormwater Comprehensive Plan Update.

Staff solicited Requests for Proposals to consultants January 2008. We received eight Statements of Qualifications (SOQ) for this project. The staff selected the three best qualified consultants to be interviewed. One consultant shortly before the interview dropped out from consideration. The members of the review panel (Steve Misiurak, Jeff Langhelm and Wayne Matthews) met and conducted formal interviews of the prospective consultants. Based upon the results of interviews and reference checks, along with review of the materials submitted, the panel unanimously selected Pace Engineers as the most qualified to perform the task.

The standard consultant services contract is being utilized for this project. A detailed description of services is provided herein.

FISCAL CONSIDERATION

This work was anticipated in the adopted 2008 Budget and is within the Storm Water Operating Narrative of Objectives 2008 Enterprise Fund allocation of \$100,000.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the approval of the Consultant Services Contract with Pace Engineers, Inc. for the completion of the Stormwater Comprehensive Plan Update in the amount of One Hundred Thousand Dollars and No Cents (\$100,000.00).

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
PACE Engineers, Inc**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and PACE Engineers, Inc., a corporation organized under the laws of the State of Washington, located and doing business at 1601 Second Avenue, Suite 1000, Seattle, Washington, 98101, (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the updating of the City's Stormwater Comprehensive Plan and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Services, dated May 19, 2008, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

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

TERMS

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Hundred Thousand Dollars and no cents (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Services referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

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

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:
Ken Nilsen, P.E.
PACE Engineers, Inc.
1601 Second Av, Ste 1000
Seattle, Washington 98101
(206) 441-1855

Stephen Misiurak, P.E.
City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335
(253) 851-6170

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification

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

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Ken Nilson 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 Vice President of PACE Engineers, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: May 20, 2008

(April B. Cook)

April B. Cook
(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing at:

Snohomish County, WA

My Commission expires: 07/10/2010

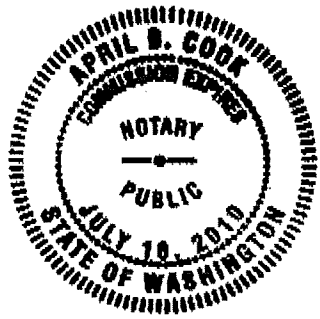


Exhibit A - Scope of Work

The City of Gig Harbor in accordance with Department of Ecology Guidelines and requirements is in need of updating their Stormwater Comprehensive Plan which was completed in 2001. Since that time there have been changes in stormwater and environmental regulations and technologies. This scope of work is for the development of a new Stormwater Comprehensive Plan that complies with the requirements of the Department of Ecology's NPDES Phase II Permit. This plan will provide a "road map" setting forth the current and future system requirements for the City's surface water and drainage system. The Plan must be developed in coordination with the requirements of the City and other regulatory agencies including, Pierce County, the State Department of Ecology (Ecology), the State Department of Fish and Wildlife (WDFW) and the National Marine Fisheries Service (NMFS). The Gig Harbor Stormwater Comprehensive Plan will include the following items:

- Introduction/Current Issues and Trends
- Review City's current NPDES Phase II Program
- Develop a hydrologic and hydraulic model of the City's drainage system.
- Develop a Stormwater Capital Improvement Program.
- Develop a Stormwater Facilities Maintenance Program.
- Evaluate alternative approaches to implement Low Impact Development
- Review the financing plan for the implementation of the Stormwater Comprehensive Plan
- Review existing interlocal agreements related to stormwater
- Propose recommendations to the City's stormwater code and policies

The project will be produced on a chapter-by-chapter basis, which upon completion will be assembled into Draft and Final Plans. To facilitate prompt completion of the project and insure that all team members are aware of various parameters used for analysis and determination of recommended improvements, chapters will be submitted to the City for review and comment as the project progresses. It is assumed that the City will review preliminary sections and provide comments to PACE. The final document will be provided in digital format (Word, Excel, and GIS) as appropriate. In addition, a complete copy of the document will be provided in PDF format to facilitate exact replication of the document. This proposal assumes that ArcGIS 9 will be used for mapping and graphics. Information available from other sources (e.g., County GIS, etc.) will be used if possible to reduce project costs.

The following tasks have been identified for the Stormwater Comprehensive Plan. These tasks generally correlate to proposed chapters in the Plan. The anticipated costs associated with each task are provided in the attached cost estimate.

All travel times to and from the City will be computed from the time the consultant crosses over the Pierce County border. The City will not pay for travel times beyond that point.

Task 1 – Project Coordination and Management

This task includes general project coordination as well as meetings with the City as required to facilitate development of a Plan that is in accordance with City expectations and all applicable regulatory requirements. Majority of the project coordination with the City will take place through telephone conversations and e-mails. Included in this task are two meetings with the City estimated at four hours

Exhibit A - Scope of Work

criteria will be used. To ensure compliance with Ecology requirements, PACE recommends that Ecology's Western Washington Continuous Simulation Hydrology Model, version 3 be used to develop flows.

PACE will model the storm system using the selected model, based on existing information. The storm system will be modeled under future developed conditions. This analysis is to determine conveyance capacity only. Model input data will be derived from field investigation, existing information provided by the City including mapping (storm system, topography, land use, aerials, soils...), past modeling reports, basin plans, stormwater comprehensive plan and other modeling related information. The City has completed an inventory and mapping of the storm system which includes both pipes and open channel systems including the identification of all known stormwater outfalls. The inventory has been integrated into the City's Geographic Information Systems (GIS). PACE will use the inventory for the model as it exists and does not anticipate any revisions or updates to the inventory as a part of this contract. Future developed conditions will be based on full build-out of all properties within the study area, as described in the City's zoning codes. Maximum impervious lot coverage percentage for each zoning classification to be provided by the City. City will also provide buildable lands and critical areas buffer mapping.

The entire storm system will not be analyzed. Only the main trunklines for the six major drainage basins will be analyzed. PACE will work with the City in the selection and prioritization of those parts of the system and basins to be analyzed. Based on information from the City, the recent Gig Harbor North Projects and Olympic Drive 56th Street NW Project has completed an analysis of their respective basins. It is assumed for this task that these basins will not have to be modeled.

Only those portions of creeks that convey flows between drainage structures will be included in the model. A generic cross section based on City topographic mapping will be used for the creek in the model. This contract does not include surveying creek cross sections. Roughness characteristics for creeks and drainage ditches will be provided by the City.

Output from the hydrologic model will be integrated with a hydraulic analysis of the City's conveyance system in order to identify pipe/open channel capacity and flooding problems within the system.

The City has no data available for use to calibrate the model. Data collection for calibration purposes and model calibration is not included as part of this contract. The output of the model will be reviewed with City staff, actual complaints or maintenance records and past studies. As part of this task, upgrades to system capacities would be analyzed to determine what improvements would be needed to prevent existing and/or future flooding problems. Recommended improvements will be included in Task 8, Capital Improvement Plan.

Task 6 – Environmental and Water Quality

Existing environmental and water quality information is limited. City will contact Ecology, WDFW and other non-profit groups including Trout Unlimited for any existing surveys and information for the City creeks and habitat. Based on the information provided by the City, PACE will document known needs and areas that will require future study. This task will review those activities related to the protection and preservation of the environment and water quality identified previously in the City's NPDES Phase II Compliance Program/Gap Analysis. If needed, additional recommendations may be included. Any

Exhibit A - Scope of Work

Since the rate study and connection charge analysis were completed recently, they are not included in this contract.

Task 10 – Stormwater Management Codes and Policy Updates

PACE will review the existing codes, interlocal agreements and policies related to stormwater management. This section will include recommendations for code revisions to meet current stormwater regulations and compliance with the NPDES Phase II.

This task does not include the writing of the codes or ordinance, or providing assistance during the adoption process.

Task 11 – NPDES Compliance

PACE will review the City's NPDES Phase II Compliance "Road Map" Report, 2008 NPDES Phase II City Report and existing City stormwater programs. The programs would be evaluated for compliance with the NPDES Phase II requirements and their effectiveness in preventing and/or correcting flooding, erosion, water quality and habitat problems within the City. After the review of the Compliance Report, PACE will make additional recommendations, if necessary. City to coordinate any interviews with City staff to see what activities they are currently performing as it relates to surface water and drainage facilities and their opinions on the effectiveness of those programs. This interview would include maintenance and operation staff, grading inspectors, stormwater staff, engineering review staff and capital improvement staff. This information would be provided to PACE.

The interview and review of existing studies and reports will be used to document the existing programs. Any programs not included in the Compliance Report will be compared to the NPDES Phase II regulatory requirements.

Task 12 – Low Impact Development

The City is interested in formally implementing Low Impact Development (LID) in their stormwater program. This section will provide a background on LID and discuss the benefits of LID for the City. The City will provide a list of actions that the City has taken to promote Low Impact Development, any projects within the City that have used LID techniques and various approaches to implement LID techniques. This list will be incorporated into the Plan.

The City plans to adopt the Pierce County SWMM which includes a chapter on LID. At the time of adoption, the City will need to review the LID chapter and decide to adopt it as is, or include a LID section in the ordinance that adopts the SWMM. The writing and assisting in the adoption process of the LID ordinance is not included in this contract.

Task 13 – Appendices and Supporting Documentation

Development and compilation of Plan Appendices and supporting documentation is included under this task and includes such items as interlocal agreements, SEPA, water quality data, wildlife and habitat data, storm system analysis documentation and the incorporation of other applicable studies, documents, and required information.

**City of Gig Harbor
Stormwater Comprehensive Plan Update
Exhibit B - Proposed Budget**

Project Name: Stormwater Comprehensive Plan Update
Project #: [] Bill Group #: []

Location: []
Task #: []

City of Gig Harbor
Task #: []

Prepared By: Y. Monzaki
Date: 15-Apr-08

Project Budget Worksheet

Task No.	Task Title	Labor Hours by Classification										Hour Total	Dollar Total			
		10 \$160 Principal Engineer	10P \$160 Principal Planner	12 \$140 Project Manager	13 \$130 Sr Project Engineer	14 \$120 Project Engineer	35 \$100 Planner II	62 \$110 GIS Analyst III	92 \$88 Sr Office Tech							
1	Project Coordination/Management	4	4	40	0	0	0	0	0	0	0	0	0	0	48.0	\$6,880
2	Data Collection and Start-Up	4	4	16	8	8	8	8	8	8	8	8	8	8	48.0	\$5,824
3	Executive Summary and Introduction	1	2	12	4	4	4	4	4	4	4	4	4	4	19.0	\$2,560
4	Basic Planning Data	4	8	8	8	0	16	12	12	12	12	12	12	12	44.0	\$5,320
5	Hydrologic/Hydraulic Stormwater Modeling	4	8	8	16	180	8	56	56	56	56	56	56	56	264.0	\$31,680
6	Environmental & Water Quality	4	16	16	0	0	8	8	8	8	8	8	8	8	24.0	\$3,040
7	Stormwater Maintenance Program	4	16	16	24	24	16	16	16	16	16	16	16	16	44.0	\$5,760
8	Capital Improvement Plan	4	16	16	40	40	40	40	40	40	40	40	40	40	76.0	\$9,440
9	Stormwater Utility Finance Plan	4	12	12	8	8	8	8	8	8	8	8	8	8	32.0	\$4,400
10	Stormwater Management Codes and Policy Updates	4	16	16	16	16	16	16	16	16	16	16	16	16	36.0	\$4,480
11	NPDES Compliance	4	20	20	8	8	8	8	8	8	8	8	8	8	32.0	\$4,240
12	Low Impact Development	2	4	4	8	8	8	8	8	8	8	8	8	8	30.0	\$3,520
13	Appendices & Supporting Documentation	4	4	4	4	4	4	4	4	4	4	4	4	4	16.0	\$1,504
14	Document Preparation	8	4	4	4	4	4	4	4	4	4	4	4	4	24.0	\$2,048
15	Public Process	8	8	24	4	4	4	4	4	4	4	4	4	4	64.0	\$8,600
16	Direct Expenses														0.0	\$0
Total Added Items															801.0	\$99,216

Hours Total	39.0	38.0	216.0	28.0	256.0	100.0	92.0	32.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	801.0
Labor Total	\$6,240	\$6,080	\$30,240	\$3,640	\$30,720	\$10,000	\$10,120	\$2,176	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$99,216

Expenses	rate/unit	Reimbursable	
		Quantity	Cost
Postage/Courier			
Printer			
Reproduction			\$784.00
Mileage			
Technology Fee	\$0.00	801.0	\$0.00
Total			\$784.00

Subconsultants																
Subconsultant Subtotal																
Markup																
Total																

PACE Billed Labor Total: \$99,216
 Reimbursable Expenses: \$784
 Subconsultants: \$0
Total Project Budget: \$100,000
 Rate Table Used: 2008 Billing Rates



Subject: 2008 Water Main Replacement Project

Proposed Council Action: Authorize the award and execution of a Public Works Contract for the 2008 Water Main Replacement Project with Lydel Construction Inc. in an amount not to exceed Two Hundred Thirty-Nine Thousand Eighty-Nine dollars and Twenty-One cents (\$239,089.21).

Dept. Origin: Public Works
Prepared by: Jeff Langhelm, PE
Senior Engineer
For Agenda of: May 27, 2008
Exhibits: Contract

Concurred by Mayor: _____ Initial & Date
Approved by City Administrator: Yllf Joe RK 5/22/08
Approved as to form by City Atty: _____
Approved by Finance Director: _____
Approved by Department Head: John 5/22/08

Expenditure Required	\$239,089.21	Amount Budgeted	\$40,000	Appropriation Required--see fiscal considerations
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INFORMATION / BACKGROUND

The City's 2008 Water Main Replacement Project (CWP-0809) provides for the replacement of approximately 1,400 linear feet of troublesome existing asbestos cement pipe along Franklin, Fuller, and Burnham Drive. The contract work shall include connection of existing water services to the new main, trench restoration, pressure testing, abandonment of existing asbestos concrete piping, roadway patching, and other work, all in accordance with the Contract Plans.

The City prepared the Contract Plans and issued the invitation to bid for this Project on May 8, 2008. A total of five contractors submitted sealed bids on May 22, 2008. The bid results are shown below. The Public Works Department has found Lydel Construction to be the lowest responsive bidder in the amount of \$239,089.21.

Low Bidder	<u>Lydel Construction</u>	\$239,089.21
2 nd Low Bidder	<u>Pivetta Brothers Construction</u>	\$270,846.07
3 rd Low Bidder	<u>RV Associates</u>	\$271,401.12
4 th Low Bidder	<u>Pape & Sons</u>	\$276,628.12
5 th Low Bidder	<u>MRC Construction</u>	\$326,680.02

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

- a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
- b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

- c) Whether the bidder can perform the contract within the time specified;
- d) The quality of performance of previous contracts or services;
- e) The previous and existing compliance by the bidder with laws relating to the contract or services.

The City Engineer's analysis has concluded that Lydel Construction. has satisfied all the above criteria.

FISCAL CONSIDERATION

The 2008 Water Capital Fund that has allocated \$40,000 for this project under Objective No. 4 to include only the replacement of approximately 275 feet of pipe along Burnham. However, this project has been expanded to include the replacements of the existing asbestos cement water mains within Franklin Avenue and Fuller Street (bid schedule A) because of the overlay projects associated with these streets.

Sufficient funds exist within the Water Capital account to fund these necessary improvements.

BOARD OR COMMITTEE RECOMMENDATION

The Operations and Public Projects reviewed this project with the proposed additions of the Franklin Avenue and Fuller Street at their March 20 meeting and concurred with the appropriateness of performing all three water main replacements at the same time.

RECOMMENDATION / MOTION

Move to: Authorize the award and execution of a Public Works Contract for the 2008 Water Main Replacement Project with Lydel Construction in an amount not to exceed Two Hundred Thirty-Nine Thousand, Eighty-Nine dollars and Twenty-One cents (\$239,089.21).

**2008 WATER MAIN REPLACEMENT PROJECT
CWP- 0809**

CONTRACT

THIS AGREEMENT, made and entered into, this ____ day of _____, 2008, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called the "City", and Lydel Construction, Inc., located and doing business at, 22494 Big Valley Rd NE, Poulsbo, WA 98370, hereinafter called the "Contractor."

WITNESSETH:

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

The Contractor shall do all of the work and furnish all of the labor, materials, tools, and equipment necessary place approximately 1,400 linear feet of 8" ductile iron water main pipe between two separate bid schedules and shall include connection of existing water services to the new main, trench restoration, pressure testing, abandonment of existing asbestos cement piping, roadway patching, and other work, all in accordance with the attached Contract Plans, these Special Provisions, and the Standard Specifications and shall perform any changes in the work, all in full compliance with the contract documents entitled "2008 Water Main Replacement Project, CWP-0809," which are by this reference incorporated herein and made a part hereof; and agrees to accept payment for the same in accordance with the said contract documents, including the schedule of prices in the "Proposal," the sum of Two Hundred Thirty-Nine Thousand, Eighty-Nine dollars and Twenty-One cents (\$239,089.21), subject to the provisions of the Contract Documents, the Special Provisions, and the Standard Specifications.

1. The Notice to Proceed will be given within 21 days after the contract has been executed BY BOTH PARTIES. The Contractor shall commence construction activities on the project site within ten working days of the Notice to Proceed date, unless otherwise DIRECTED BY THE OWNER in writing. Contract time shall begin on the first working day following the Notice to Proceed Date. Work for Schedule A (Franklin Avenue and Fuller Street) shall be substantially completed within 20 working days and shall be physically completed within 25 working days. Work for Schedule B (Burnham Drive) shall be substantially completed within 10 working days and shall be physically completed within 15 working days.
2. The Contractor agrees to pay the City the sum of \$896.58 per day for each and every day all work remains uncompleted after expiration of the specified time, as liquidated damages.
3. The Contractor shall provide for and bear the expense of all labor, materials, tools and equipment of any sort whatsoever that may be required for the full performance of the work provided for in this Contract upon the part of the Contractor.
4. The term "Contract Documents" shall mean and refer to the following: "Invitation to Bidders," "Quotation Proposal," "Addenda" if any, "Specifications," "Plans," "Contract," "Performance Bond," "Maintenance Bond," "Payment Bond," "Special Provisions," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Contract Documents, including, but not limited to the Washington State Department of Transportation's "2008 Standard Specifications for Road, Bridge, and Municipal

Construction," including the American Public Works Association (APWA) General Special Provisions.

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

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

CITY of GIG HARBOR:

CONTRACTOR: Lydel Construction, Inc.
22494 Big Valley Rd NE
Poulsbo, WA 98370
360-598-4741

Charles L. Hunter, Mayor
City of Gig Harbor

Print Name: _____

Print Title: _____

ATTEST:

City Clerk Date

APPROVED FOR FORM:

City Attorney Date



CITY OF GIG HARBOR
2008 WATERMAIN REPLACEMENT PROJECT CWP-0809
 Bid Opening: Thursday, May 22, 2008 9:00am

Bid Schedule A - Franklin Av and Fuller St

Item No.	ITEM	QUANTITY	UNIT	Engineer's Estimate		CONTRACTOR Lydel Construction		CONTRACTOR Pivetta Brothers Construction	
				Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
A-1	Mobilization	1	LS	\$24,900.00	\$24,900.00	\$7,500.00	\$7,500.00	\$5,100.00	\$5,100.00
A-2	Flaggers and Spotters	320	HR	\$48.00	\$15,360.00	\$39.50	\$12,640.00	\$52.00	\$16,640.00
A-3	Traffic Control Supervisor	160	HR	\$58.00	\$9,280.00	\$39.50	\$6,320.00	\$55.00	\$8,800.00
A-4	Other Temporary Traffic Control	1	LS	\$1,800.00	\$1,800.00	\$500.00	\$500.00	\$2,800.00	\$2,800.00
A-5	sched A - Potholing for Utilities	1	LS	\$2,806.00	\$2,806.00	\$1,500.00	\$1,500.00	\$4,900.00	\$4,900.00
A-6	sched A - Shoring or Extra Excavation Cl B	1	LS	\$1,184.00	\$1,184.00	\$500.00	\$500.00	\$500.00	\$500.00
A-7	sched A - Cl 52 DI Pipe for Watermain 8 in diam	1096	LF	\$110.00	\$120,560.00	\$68.25	\$74,802.00	\$80.00	\$87,680.00
A-8	sched A - Gate Valve 8 in	4	EA	\$982.00	\$3,928.00	\$975.00	\$3,900.00	\$886.00	\$3,544.00
A-9	sched A - Install New Service Line	23	EA	\$2,217.00	\$50,991.00	\$275.00	\$6,325.00	\$282.00	\$6,486.00
A-10	sched A - Install New Meter Setters	20	EA	\$229.00	\$4,580.00	\$625.00	\$12,500.00	\$408.00	\$8,160.00
A-11	sched A - Concrete Sidewalk	50	SY	\$43.00	\$2,150.00	\$115.00	\$5,750.00	\$49.00	\$2,450.00
A-12	sched A - Concrete Driveway	5	SY	\$50.00	\$250.00	\$360.00	\$1,800.00	\$108.00	\$540.00
A-13	sched A - Abandon Existing AC Pipe	1	LS	\$1,518.67	\$1,518.67	\$2,500.00	\$2,500.00	\$8,500.00	\$8,500.00
A-14	sched A - Crushed Surfacing Top Course	68	TON	\$17.24	\$1,172.32	\$25.00	\$1,700.00	\$27.00	\$1,836.00
A-15	sched A - Asphalt Concrete Pavement, Class B	112	TON	\$95.00	\$10,640.00	\$195.00	\$21,840.00	\$160.00	\$17,920.00
A-16	sched A - Hydrant Assembly	1	EA	\$3,197.00	\$3,197.00	\$3,500.00	\$3,500.00	\$3,500.00	\$3,500.00
A-17	Maintenance Bond	1	LS	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00	\$600.00	\$600.00
A-18	Force Account	1	ALLOW	\$11,500.00	\$11,500.00	\$11,500.00	\$11,500.00	\$11,500.00	\$11,500.00
O-1	Connect to New Ductile Iron Main	1	LS						
O-2	Connect to Existing Asbestos Cement Pipe	1	LS				\$0.00		\$0.00
SUBTOTAL					\$266,816.99		\$176,577.00	Subtotal	\$191,456.00
Tax at 8.4%					\$22,412.63		\$14,832.47	Tax	\$16,082.30
Engineer's Contingency							N/A		N/A
SCHEDULE A TOTAL					\$289,229.62		\$191,409.47	A TOTAL	\$207,538.30



Bid Schedule B - Burnham Drive

Item No.	ITEM	QUANTITY	UNIT	Extended Price		Unit Price		Item No.	Extended Price		Unit Price	
				Unit Price	Extended Price	Unit Price	Extended Price		Unit Price	Extended Price		
B-1	Mobilization	1	LS	\$6,200.00	\$6,200.00	\$2,000.00	\$2,000.00	B-1	\$1,800.00	\$1,800.00	\$1,800.00	\$1,800.00
B-2	Flaggers and Spotters	160	HR	\$48.00	\$7,680.00	\$39.50	\$6,320.00	B-2	\$52.00	\$8,320.00	\$52.00	\$8,320.00
B-3	Traffic Control Supervisor	80	HR	\$58.00	\$4,640.00	\$39.50	\$3,160.00	B-3	\$55.00	\$4,400.00	\$55.00	\$4,400.00
B-4	Other Temporary Traffic Control	1	LS	\$1,800.00	\$1,800.00	\$500.00	\$500.00	B-4	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00
B-5	sched B - Potholing For Utilities	1	LS	\$1,403.00	\$1,403.00	\$750.00	\$750.00	B-5	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00
B-6	Portable Changeable Message Sign	1	LS	\$592.00	\$592.00	\$100.00	\$100.00	B-6	\$500.00	\$500.00	\$500.00	\$500.00
B-7	Operation of Portable Changeable Message Sign	260	LF	\$110.00	\$28,600.00	\$68.25	\$17,745.00	B-7	\$80.00	\$20,800.00	\$80.00	\$20,800.00
B-8	Other Temporary Traffic Control	1	EA	\$982.00	\$982.00	\$975.00	\$975.00	B-8	\$886.00	\$886.00	\$886.00	\$886.00
B-9	Environmental Protection	3	EA	\$2,217.00	\$6,651.00	\$275.00	\$825.00	B-9	\$282.00	\$846.00	\$282.00	\$846.00
B-10	Demolition/Disposal of Pier and Boat Haul-out Rails	2	EA	\$229.00	\$458.00	\$625.00	\$1,250.00	B-10	\$408.00	\$816.00	\$408.00	\$816.00
B-11	Dredging and Disposal of Contaminated Sediment	5	SY	\$43.00	\$215.00	\$115.00	\$575.00	B-11	\$49.00	\$245.00	\$49.00	\$245.00
B-12	Furnish and Place Cap Sand	0	SY	\$50.00	\$0.00	\$0.00	\$0.00	B-12	\$0.00	\$0.00	\$0.00	\$0.00
B-13	Furnish and Place Surface Gravel	1	LS	\$759.33	\$759.33	\$500.00	\$500.00	B-13	\$7,150.00	\$7,150.00	\$7,150.00	\$7,150.00
B-14	Furnish and Place Bulkhead Habitat Mix	17	TON	\$17.24	\$293.08	\$25.00	\$425.00	B-14	\$27.00	\$459.00	\$27.00	\$459.00
B-15	Demolition and Disposal of Timber Bulkhead	28	TON	\$95.00	\$2,660.00	\$195.00	\$5,460.00	B-15	\$160.00	\$4,480.00	\$160.00	\$4,480.00
B-16	Excavation and Disposal of Upland Soils	0	EA	\$3,197.00	\$0.00	\$0.00	\$0.00	B-16	\$0.00	\$0.00	\$0.00	\$0.00
B-17	Hydroseed Disturbed Areas	1	LS	\$1,000.00	\$1,000.00	\$500.00	\$500.00	B-17	\$600.00	\$600.00	\$600.00	\$600.00
B-18	Force Account	1	ALLOW	\$2,900.00	\$2,900.00	\$2,900.00	\$2,900.00	B-18	\$2,900.00	\$2,900.00	\$2,900.00	\$2,900.00
SUBTOTAL					\$66,833.41		\$43,985.00		Subtotal	\$68,402.00		\$68,402.00
Tax at 8.4%					\$5,614.01		\$3,694.74		Tax	\$4,905.77		\$4,905.77
Engineer's Contingency										N/A		N/A
SCHEDULE B TOTAL					\$72,447.42		\$47,679.74		B TOTAL	\$63,307.77		\$63,307.77
BID TOTAL					\$361,677.03		\$239,089.21		BID TOTAL	\$270,846.07		\$270,846.07
AMOUNT ABOVE/(BELOW) ENGINEER'S ESTIMATE:					\$0.00		(\$24,767.69)			(\$9,139.65)		(\$9,139.65)
PERCENT ABOVE/(BELOW) ENGINEER'S ESTIMATE:					0%		(3.4%)			(13%)		(13%)

The bid totals shown above represent the submitted bids as read aloud at bid opening. The apparent lowest responsible bidder will be designated pending further evaluation. The City reserves the right to award the Contract to the responsible bidder with the lowest responsive bid. A bidder will be deemed not responsible, and the proposal rejected, if the bidder does not meet all of the responsibility criteria listed in the Contract Documents. Some of those criteria are listed below:



Item	Responsibility and Responsiveness Criteria	Y/N and Comments	Criteria	Y/N and Comments
	Revised Code of Washington (RCW) 39.04 responsibility criteria:			
A	Certificate of Registration in compliance with RCW 18.27	LYDELC114TRA	A	
B	Current State Unified Business License	Y	B	
C	Industrial Insurance Coverage per Title 51 RCW	Y	C	
D	State Excise Tax Registration number per Title 82 RCW	600 625 188	D	
E	Employment Security Department Number per Title 50 RCW	605895-00-1	E	
F	Not disqualified from public works bidding per RCW 39.06.010 or 39.12.065(3)		F	
	Checklist of City Bid Forms			
G	Statement of Bidder's Qualifications Completed	Y	G	
H	Addenda Received Acknowledgement (0 addenda issued)	Y	H	
I	Bid Proposal Completed	Y	I	
J	Proposal Signature Completed and Signed	Y	J	
K	Deposit for Bid Bond Form Completed and Signed (equal to 5% of bid proposal)	Y	K	
L	Non-Collusion Certificate Signed and Notarized	Y	L	
M	Bidder's Proposed Subcontractor's List Completed and Signed	Y	M	
N	Property Release Form Completed and Signed (if applicable)		N	



Item No.	CONTRACTOR RV Associates		Item No.	CONTRACTOR Pape & Sons Construction		Item No.	CONTRACTOR MRC Construction	
	Unit Price	Extended Price		Unit Price	Extended Price		Unit Price	Extended Price
A-1	\$20,250.00	\$20,250.00	A-1	\$5,750.00	\$5,750.00	A-1	\$14,405.22	\$14,405.22
A-2	\$51.11	\$16,355.20	A-2	\$41.75	\$13,360.00	A-2	\$46.71	\$14,947.20
A-3	\$66.67	\$10,667.20	A-3	\$41.75	\$6,680.00	A-3	\$50.13	\$8,020.80
A-4	\$7,743.00	\$7,743.00	A-4	\$1,030.00	\$1,030.00	A-4	\$4,657.42	\$4,657.42
A-5	\$6,051.00	\$6,051.00	A-5	\$1,335.00	\$1,335.00	A-5	\$1,516.79	\$1,516.79
A-6	\$5,519.00	\$5,519.00	A-6	\$100.00	\$100.00	A-6	\$227.85	\$227.85
A-7	\$43.23	\$47,380.08	A-7	\$92.00	\$100,832.00	A-7	\$94.08	\$103,111.68
A-8	\$1,311.50	\$5,246.00	A-8	\$975.00	\$3,900.00	A-8	\$1,051.69	\$4,206.76
A-9	\$713.70	\$16,415.10	A-9	\$700.00	\$16,100.00	A-9	\$1,390.83	\$31,989.09
A-10	\$452.50	\$9,050.00	A-10	\$580.00	\$11,600.00	A-10	\$361.28	\$7,225.60
A-11	\$45.00	\$2,250.00	A-11	\$63.50	\$3,175.00	A-11	\$154.83	\$7,741.50
A-12	\$112.00	\$560.00	A-12	\$87.00	\$435.00	A-12	\$581.97	\$2,909.85
A-13	\$3,847.00	\$3,847.00	A-13	\$2,300.00	\$2,300.00	A-13	\$852.36	\$852.36
A-14	\$62.76	\$4,257.68	A-14	\$21.50	\$1,462.00	A-14	\$56.05	\$3,811.40
A-15	\$142.34	\$15,942.08	A-15	\$142.00	\$15,904.00	A-15	\$115.86	\$12,976.32
A-16	\$4,312.00	\$4,312.00	A-16	\$3,525.00	\$3,525.00	A-16	\$4,588.57	\$4,588.57
A-17	\$1,650.00	\$1,650.00	A-17	\$2,850.00	\$2,850.00	A-17	\$1,367.15	\$1,367.15
A-18	\$11,500.00	\$11,500.00	A-18	\$11,500.00	\$11,500.00	A-18	\$11,500.00	\$11,500.00
O-1			O-1			O-1		
O-2		\$0.00	O-2		\$0.00	O-2		\$0.00
	Subtotal	\$189,005.34		Subtotal	\$201,838.00		Subtotal	\$236,055.56
	Tax	\$15,876.45		Tax	\$16,954.39		Tax	\$19,828.67
	A TOTAL	\$204,881.79		A TOTAL	\$218,792.39		A TOTAL	\$255,884.23



Item No.	Extended Price		Item No.	Extended Price		Item No.	Extended Price	
	Unit Price	Extended Price		Unit Price	Extended Price		Unit Price	Extended Price
B-1	\$8,004.00	\$8,004.00	B-1	\$4,000.00	\$4,000.00	B-1	\$7,044.64	\$7,044.64
B-2	\$51.12	\$8,179.20	B-2	\$41.75	\$6,680.00	B-2	\$47.00	\$7,520.00
B-3	\$66.68	\$5,334.40	B-3	\$41.75	\$3,340.00	B-3	\$50.43	\$4,034.40
B-4	\$3,702.00	\$3,702.00	B-4	\$850.00	\$850.00	B-4	\$1,492.40	\$1,492.40
B-5	\$2,988.00	\$2,988.00	B-5	\$800.00	\$800.00	B-5	\$763.02	\$763.02
B-6	\$1,828.00	\$1,828.00	B-6	\$100.00	\$100.00	B-6	\$229.25	\$229.25
B-7	\$52.06	\$13,535.60	B-7	\$92.00	\$23,920.00	B-7	\$97.46	\$25,339.60
B-8	\$1,311.50	\$1,311.50	B-8	\$975.00	\$975.00	B-8	\$1,078.53	\$1,078.53
B-9	\$715.00	\$2,145.00	B-9	\$700.00	\$2,100.00	B-9	\$1,872.09	\$5,616.27
B-10	\$555.00	\$1,110.00	B-10	\$580.00	\$1,160.00	B-10	\$988.69	\$1,977.38
B-11	\$110.00	\$550.00	B-11	\$63.50	\$317.50	B-11	\$212.51	\$1,062.55
B-12	\$0.00	\$0.00	B-12	\$87.00	\$0.00	B-12	\$0.00	\$0.00
B-13	\$1,650.00	\$1,650.00	B-13	\$450.00	\$450.00	B-13	\$731.47	\$731.47
B-14	\$67.00	\$1,139.00	B-14	\$21.50	\$365.50	B-14	\$42.88	\$728.96
B-15	\$229.93	\$6,438.04	B-15	\$142.00	\$3,976.00	B-15	\$156.79	\$4,390.12
B-16	\$0.00	\$0.00	B-16	\$3,525.00	\$0.00	B-16	\$0.00	\$0.00
B-17	\$550.00	\$550.00	B-17	\$1,420.00	\$1,420.00	B-17	\$401.18	\$401.18
B-18	\$2,900.00	\$2,900.00	B-18	\$2,900.00	\$2,900.00	B-18	\$2,900.00	\$2,900.00
	Subtotal	\$61,364.74	Subtotal	\$53,354.00	\$53,354.00	Subtotal	\$65,309.77	\$65,309.77
	Tax	\$5,154.64	Tax	\$4,481.74	\$4,481.74	Tax	\$5,486.02	\$5,486.02
		N/A		N/A	N/A		N/A	N/A
	B TOTAL	\$66,519.38	B TOTAL	\$57,835.74	\$57,835.74	B TOTAL	\$70,795.79	\$70,795.79
	BID TOTAL	\$271,401.17	BID TOTAL	\$276,628.13	\$276,628.13	BID TOTAL	\$326,680.02	\$326,680.02
		(\$5,928.04) (8%)		(\$14,611.68) (20%)	(\$14,611.68) (20%)		(\$1,651.63) (2%)	(\$1,651.63) (2%)

The bid totals shown above represent the submitted bids as read aloud at bid opening. The apparent lowest responsible bidder will be designated pending further evaluation. The City reserves the right to award the Contract to the responsible bidder with the lowest responsive bid. A bidder will be deemed not responsible, and the proposal rejected, if the bidder does not meet all of the responsibility criteria listed in the Contract Documents. Some of those criteria are listed below.



Criteria	Y/N and Comments	Criteria	Y/N and Comments	Criteria	Y/N and Comments
A		A		A	
B		B		B	
C		C		C	
D		D		D	
E		E		E	
F		F		F	
G		G		G	
H		H		H	
I		I		I	
J		J		J	
K		K		K	
L		L		L	
M		M		M	
N		N		N	



Subject: Second Reading of Ordinance -
R-2 Zoning District Amendment
(ZONE 08-0002)

Proposed Council Action: Adopt ordinance
at this second reading.

Dept. Origin: Planning

Prepared by: Jennifer Kester
Senior Planner

For Agenda of: May 27, 2008

Exhibits: Draft Ordinance; Planning Commission
Minutes

Initial & Date

Concurred by Mayor:

CUH 5/14

Approved by City Administrator:

RJK 5/13

Approved as to form by City Atty:

CAM 5/13/08

Approved by Finance Director:

DR 5/13/08

Approved by Department Head:

5/15/08

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

Attached for the Council's consideration are proposed amendments to the Medium – Density Residential (R-2) zone. If adopted the amendments would:

- 1) Add triplexes and fourplexes as conditional uses in the R-2 zoning district.
- 2) Set a minimum density of 4 dwelling units per net acre for the R-2 zoning district.
- 3) Increase the allowance for impervious coverage in the R-2 zoning district from 40% to 60% of the total lot area.
- 4) Amend the Density in Residential Zones chapter (GHMC 17.05) to state that the allowed density in each zone is the minimum and/or maximum density as specified in each zoning district chapter.

The Planning Commission held work study sessions on this text amendment on January 3rd and January 17th, 2008 and February 21st, 2008. A public hearing before the Planning Commission was held on March 6, 2008. There was no testimony at the public hearing. The Planning Commission voted unanimously to recommend approval of the text amendment. Copies of the minutes for the Planning Commission meetings which these amendments were discussed are attached.

At the Monday, May 12, 2008, first reading on this ordinance the Council had questions on the minimum density currently required in the R-2 zoning district. The R-2 zoning district does not currently have a minimum density. This amendment if adopted would set a minimum density.

POLICY CONSIDERATIONS

Zoning text amendments are addressed in Chapter 17.100 of the Gig Harbor Municipal Code. There are no criteria for approval of a zoning text amendment, but the Council should generally consider whether the proposed amendment furthers the public health, safety and welfare, and whether the proposed amendment is consistent with the Gig Harbor Municipal Code, the Comprehensive Plan and the Growth Management Act (chapter 36.70A RCW). Zoning text amendments are considered a Type V legislative action (GHMC 19.01.003).

GHMC 17.20 Medium-Density Residential (R-2)

Chapter 17.20 GHMC contains the uses, performance standards and site development standards for the R-2 zone.

From GHMC 17.20.010:

An R-2 district is intended to allow for a moderate density of land use that is greater than is permitted in an R-1 district but less than is permitted in an R-3 district, where suitable facilities such as streets, water, sewer and storm drainage are available. An R-2 district provides a transition between a higher density residential district in order to preserve the primarily residential character of existing lower density residential areas.

Staff/Planning Commission Analysis:

The Planning and Building Committee first discussed this text amendment in the fall of 2007 after several citizens expressed concern that their triplexes were nonconforming uses in the R-2 zone. Upon research of the R-2 zone, it was found that approximately 27 percent of the residential units in the R-2 zone are contained in triplexes or fourplexes. With the proposed amendment only approximately 6 percent of the residential units in the R-2 would be considered nonconforming uses.

The following is a synopsis of the issues discussed and reviewed by the Planning Commission:

The Planning Commission expressed concern with the percentage of triplex and fourplex units in the R-2 zone and how those uses were nonconforming uses. The Planning Commission felt that triplex and fourplex uses were consistent with the intent of the Medium-Density Residential (R-2) zone to provide a transition between single-family and multiple-family housing typologies. In addition, conditionally allowing triplexes and fourplexes will greatly reduce the number of nonconforming residential uses in the zone.

The addition of triplexes and fourplexes has the potential to allow more affordable housing choices in the R-2 zone and still transition between a single-family zone (R-1) and a multi-family zone (R-3/RB-2). However, given the potential size and bulk of triplexes and fourplexes, the Planning Commission felt the uses should be conditionally allowed in the zone. The conditional use process would be appropriate to evaluate the impacts associated with triplexes and fourplexes, because the conditional use procedure would assure that the public would have an opportunity to comment on the development during a public hearing, and the hearing examiner could evaluate the use under the conditional use permit criteria to determine whether the triplex or fourplex would be detrimental to the existing neighborhood.

The Planning Commission then discussed the issue of density and felt that the maximum allowed density should not increase but that a minimum density of 4 dwelling units per acre

would be appropriate for full utilization of the transitional nature of the R-2 zone and meet urban densities required by the Growth Management Act. The Planning Commission proposes increasing the impervious surface allowance to 60% to accommodate 6 dwelling units per acre and the duplexes, triplex and fourplex buildings and associated driveways allowed in the proposed amendments.

ENVIRONMENTAL ANALYSIS

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the proposed amendments on March 5, 2008 as per WAC 197-11-340(2).

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

The Planning Commission is recommending approval of the proposed text amendments.

RECOMMENDATION / MOTION

Move to: Adopt ordinance at this second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, ADDING TRIPLEXES AND FOURPLEXES AS CONDITIONAL USES IN THE R-2 ZONING DISTRICT; ESTABLISHING A MINIMUM DENSITY OF FOUR (4) DWELLING UNITS PER NET ACRES FOR THE R-2 ZONING DISTRICT; INCREASING THE ALLOWANCE FOR IMPERVIOUS LOT COVERAGE FROM 40 PERCENT TO 60 PERCENT IN THE R-2 ZONING DISTRICT; AND AMENDING THE DENSITY IN RESIDENTIAL ZONES CHAPTER (GHMC 17.05) TO STATE THAT THE ALLOWED DENSITY IN EACH ZONE IS THE MINIMUM AND/OR MAXIMUM DENSITY AS SPECIFIED IN THE ZONING DISTRICT CHAPTER; AMENDING GHMC SECTION 17.14.020, 17.20.040, 17.20.070 AND 17.05.020 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, approximately 27 percent of the existing residential units in the R-2 zoning district are contained in triplexes or fourplexes but triplexes and fourplexes are prohibited uses in the R-2 zoning district; and

WHEREAS, the R-2 zoning district is intended to allow for a moderate density of land use that is greater than is permitted in an R-1 zoning district but less than is permitted in an R-3 zoning district and to provide a transition between a higher density residential district in order to preserve the primarily residential character of existing lower density residential areas; and

WHEREAS, allowing triplexes and fourplexes in the R-2 zoning district would be consistent with one aspect of the intent of that zone's stated intent, which is to provide a transition between single-family and multiple-family housing typologies; and

WHEREAS, Comprehensive Plan Goal 2.3.3.a desires an expansion in residential districts and code definitions to allow a board choice of housing types and locations; and

WHEREAS, the City desires to require conditional use permits for triplexes and fourplexes rather than allow them outright in the R-2 zoning district given the potential size and bulk of triplexes and fourplexes; and

WHEREAS, the conditional use process would be appropriate to evaluate the impacts associated with triplexes and fourplexes, because the conditional use procedure would assure that the public would have an opportunity to comment on the development during a public hearing, and the hearing examiner

could evaluate the use under the conditional use permit criteria to determine whether the triplex or fourplex would be detrimental to the existing neighborhood; and

WHEREAS, currently the R-2 zoning district does not have a minimum required density; and

WHEREAS, the City desires to establish a minimum density of four (4) dwelling units per acre in the R-2 zoning district to assure full utilization of the transitional nature of the R-2 zoning district and meet urban densities required by the Growth Management Act; and

WHEREAS, the City desires to increase to allowed impervious lot coverage in the R-2 zoning district from 40 percent to 60 percent to allow for the maximum density of 6 dwelling units per acre and the duplexes, triplexes and fourplexes and associated driveways permitted outright or conditionally allowed in the zoning district; and

WHEREAS, GHMC Section 17.05.020 currently states that all densities listed in the zoning code are maximum densities which would not be true with the adoption of this ordinance and needs to be corrected; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on March 5, 2008; and

WHEREAS, on March 5, 2008, a copy of this Ordinance was sent to the Washington Department of Community, Trade and Economic Development, pursuant to RCW 36.70A.106; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on March 6, 2008 and made a recommendation of approval to the City Council; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on May 12, 2008; and

WHEREAS, on _____, 2008, the City Council adopted this Ordinance at second reading during a regular City Council meeting; Now, therefore;

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

Section 1. Section 17.14.020 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.14.020 Land use matrix

	PI	R-1	RLD	R-2	RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 ²⁰	PCD-C	ED ¹⁸	WR	WM	WC	PCD-BP	PCD-NB	MUD
Uses																				
Dwelling, single-family	-	P	P	P	P	C	P	P	C	P ¹⁴	C	C	P ¹⁴	-	P	P	P	-	P ¹⁴	P
Dwelling, duplex	-	-	-	P	P	P	-	P	C	P ¹⁴	C	C	P ¹⁴	-	P	P	P	-	P ¹⁴	P
Dwelling, triplex	-	-	-	C	P	P	-	P	C	P ¹⁴	C	C	P ¹⁴	-	-	C ¹⁷	P	-	P ¹⁴	P
Dwelling, fourplex	-	-	-	C	P	P	-	P	C	P ¹⁴	C	C	P ¹⁴	-	-	C ¹⁷	P	-	P ¹⁴	P
Dwelling, multiple-family	-	-	-	-	P	P ⁶	-	P	C	P ¹⁴	C	C	P ¹⁴	-	-	-	-	-	P ¹⁴	P
Accessory apartment ¹	-	C	P	-	P	-	C	C	C	P ¹⁴	C	C	P ¹⁴	-	-	-	P	-	P ¹⁴	P
Family day care provider	-	P	P	P	P	P	P	P	C	P	P	P	P	-	P	P	P	P	P	P
Home occupation ²	-	P	P	P	P	P	P	P	C	P	-	C	-	-	P	P	P	-	-	-
Adult family home	-	P	P	P	P	P	P	P	C	P	P	P	P	-	P	P	P	P	P	P
Living facility, independent	-	-	-	C	-	P	C	C	C	P	C	C	P	C	-	-	-	-	-	P
Living facility, assisted	-	-	-	C	-	P	C	C	C	P	-	C	P	C	-	-	-	-	-	P
Nursing facility, skilled	-	-	-	C	-	P	C	C	C	P	C	C	P	C	-	-	-	-	-	P
Hospital	-	-	-	-	-	-	-	-	C	-	C	C	-	C	-	-	-	C	-	-
School, primary	P	C	P	C	P	C	C	C	C	P	-	C	P	P	-	-	-	P	-	-
School, secondary	P	C	P	C	P	C	C	C	C	P	-	C	P	P	-	-	-	P	-	-
School, higher educational	P	C	-	C	-	C	C	C	C	P	-	C	P	P	-	-	-	P	-	-
School, vocational/trade	P	C	-	C	-	C	C	C	C	P	-	C	P	P	-	-	-	P	-	-
Government administrative office	P	C	P	C	P	C	C	P	P	P	P	P	P	P	C	P	P	P	P	P
Public/private services	P	C	-	C	-	C	C	C	C	P	C	C	P	C	C	C	C	P	P	P
Religious worship, house of	-	C	P ⁵	C	P ⁵	C	C	C	C	P	-	C	P	C	-	-	-	-	-	P/C ¹⁵
Museum	P	-	-	-	-	-	-	-	-	-	C	C	P	-	-	-	-	-	-	-
Community recreation hall	P	-	P	C	P	C	C	C	C	P	C	C	P	P	-	-	-	P	P	-
Clubs	-	-	C	C	C	C	C	C	P	P	P	P	P	P	-	C ²¹	P	P	C	-
Parks	P	P	P	P	P	P	P	P	P	P	C	C	P	P	P	P	P	P	P	P

	PI	R-1	RLD	R-2	RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 ²⁰	PCD-C	ED ¹⁸	WR	WM	WC	PCD-BP	PCD-NB	MUD
Uses																				
Essential public facilities	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Utilities	P	C	P	C	P	C	C	C	C	P	C	C	P	C	C	C	C	P	P	P
Lodging, level 1	-	C	-	C	-	P	P	P	P	P	C	C	-	-	C	C	C	-	-	P
Lodging, level 2	-	-	-	-	-	-	-	C	P	-	P	P	P	-	-	-	C	-	-	P
Lodging, level 3	-	-	-	-	-	-	-	C	P	-	P	P	P	-	-	-	C	-	-	P
Personal services	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Professional services	-	-	-	-	-	-	P	P	P	-	P	P	P	P	-	P	P	P	P	P
Product services, level 1	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Product services, level 2	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	P ¹⁶
Sales, level 1	-	-	-	-	-	-	C ^{7,8}	-	P	P	P	P	P	-	-	-	P	-	P ¹³	P
Sales, level 2	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-
Sales, level 3	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-
Sales, ancillary	-	-	-	-	-	-	P	P	P	-	P	P	P	P	-	-	P	P	-	-
Commercial child care	-	-	C	-	C	-	C	C	C	-	-	P	-	C	-	-	-	-	-	-
Recreation, indoor commercial	-	-	-	-	-	-	C	C	P	-	P	P	P	C	-	-	-	-	-	P
Recreation, outdoor commercial	-	-	-	-	-	-	C	C	C	-	P ¹⁰	P	P	C	-	-	-	-	-	P
Entertainment, commercial	-	-	-	-	-	-	-	-	P	-	P	P	P	-	-	-	-	-	-	P
Automotive fuel-dispensing facility	-	-	-	-	-	-	-	-	P	-	P	P	P	-	-	-	-	-	P	-
Vehicle wash	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-	-	-
Parking lot, commercial	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	C ¹⁹	-	-	-
Animal clinic	-	-	-	-	-	-	-	-	P ⁹	-	P	P	-	P	-	-	-	P	-	P
Kennel	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-
Adult entertainment facility ³	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	-	-
Restaurant 1	-	-	-	-	-	-	C ⁸	P	P	P	P	P	P	-	-	C ¹²	P	-	P	P
Restaurant 2	-	-	-	-	-	-	-	-	P	-	P	P	P	-	-	-	P	-	P	P
Restaurant 3	-	-	-	-	-	-	-	-	P	-	P	P	P	-	-	-	P	-	P	P
Tavern	-	-	-	-	-	-	-	-	C	-	P	P	P	-	-	-	P	-	-	-
Drive-through facility	-	-	-	-	-	-	-	-	C	-	C	C	P	-	-	-	-	-	-	-
Marina	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-
Marine sales and service	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-

Uses	PI	R-1	RLD	R-2	RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 ²⁰	PCD-C	ED ¹⁸	WR	WM	WC	PCD-BP	PCD-NB	MUD
Marine boat sales, level 1	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	P	P	-	-	-
Marine boat sales, level 2	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-
Ministorage	-	-	-	-	-	-	-	C	-	-	C	C	P	C	-	-	-	-	-	P
Industrial, level 1	-	-	-	-	-	-	-	C	C	-	C	P	-	P	-	-	-	P	-	P
Industrial, level 2	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	P	-	-
Marine industrial	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P ¹¹	C	-	-	-
Wireless communication facility ⁴	C	C	C	C	C	C	P	P	C	P	C	P	P	P	C	C	C	P	P	-
Accessory uses and structures	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

¹ Accessory apartments requiring conditional use permits are subject to the criteria in GHMC Section 17.64.045.

² Home occupations are subject to Chapter 17.84 GHMC.

³ Adult entertainment facilities are subject to Chapter 17.58 GHMC.

⁴ Wireless communication facilities are subject to Chapter 17.61 GHMC.

⁵ Houses of religious worship shall be limited to parcels not greater than 5 acres.

⁶ Multiple-family dwellings shall be limited to no more than eight attached dwellings per structure in the R-3 district.

⁷ Sales, level 1 uses shall be limited to food stores in the RB-1 district.

⁸ See GHMC Section 17.28.090(G) for specific performance standards of restaurant 1 and food store uses in the RB-1 zone.

⁹ Animal clinics shall have all activities conducted indoors in the DB district.

¹⁰ Drive-in theaters are not permitted in the B-2 district.

¹¹ Marine industrial uses in the WM district shall be limited to commercial fishing operations and boat construction shall not exceed one boat per calendar year.

¹² Coffeehouse-type restaurant 1 uses shall not exceed 1,000 square feet in total size in the WM district.

¹³ Sales, level 1 uses shall be limited to less than 7,500 square feet per business in the PCD-NB district.

¹⁴ Residential uses shall be located above a permitted business or commercial use.

¹⁵ Houses of religious worship on parcels not greater than 10 acres are permitted uses in the MUD district; houses of religious worship on parcels greater than 10 acres are conditionally permitted uses in the MUD district.

¹⁶ Auto repair and boat repair uses shall be conducted within an enclosed building or shall be in a location not visible from public right-of-way and adjacent properties.

¹⁷ Only one triplex dwelling or one fourplex dwelling is conditionally permitted per lot in the WM district.

¹⁸ Planned unit developments (PUDs) are conditionally permitted in the ED district.

¹⁹ Commercial parking lots in the WC district shall be related to shoreline uses.

²⁰ Junkyards, auto wrecking yards and garbage dumps are not allowed in the C-1 district.

²¹ Clubs in the WM zone shall not serve alcoholic beverages and shall not operate a grill or deep-fat fryer.

Section 2. Section 17.20.040 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.20.040 Development Standards

In an R-2 district, the minimum requirements are as follows:

	Single-family and duplex dwellings	Other residential and nonresidential
A. Minimum lot area for short plats ¹	7,000 sq.ft./dwelling unit	
B. Minimum lot width ¹	50'	50'
C. Minimum front yard ^{2, 4-3}	House: 20' Porch: 12' Garage: 26'	25'
D. Minimum side yard ^{4, 5-3, 4}	8'	7'
E. Minimum rear yard ^{4, 5-3, 4}	30'	25'
F. Maximum site <u>impervious lot coverage</u>	40% <u>60%</u> of the total lot area	
G. Minimum density	4 dwelling units/acre	
G H. Maximum density ³	6 dwelling units/acre	

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

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

³ ~~A maximum density of up to 7.8 dwelling units per acre may be permitted within a planned residential development, pursuant to Chapter 17.89 GHMC.~~

^{4, 3} Development in the historic district shall comply with the setbacks defined in GHMC 17.99.310 and 17.99.320.

^{5, 4} Garages accessory to single-family and duplex dwellings may be located in the defined side and rear yards, provided they conform to the criteria in GHMC 17.99.490(A)(1).

Section 3. Section 17.20.070 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.20.070 Design.

All structures development shall conform to the design standards contained defined for single-family dwellings as provided in GHMC 17.99.490. Nonresidential development shall conform to all nonresidential design standards defined in Chapter 17.99 GHMC. Duplex dwellings shall conform to the design standards for single-family dwelling as provided in GHMC 17.99.490 and 17.99.510.

Section 4. Section 17.05.020 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.05.020 Requirements Allowed density.

The allowed density, as shown for each residential zone in this title allowing residential uses, represents the minimum and/or the maximum number of dwelling units that may occupy an acre of land, as stated in each zoning district chapter. ~~This maximum number of units may be exceeded only through participation in the planned residential development process (PRD, Chapter 17.89 GHMC).~~ Where the allowed density of a zone does not state a minimum or maximum density, the stated density shall represent both the minimum and maximum number of dwelling units that may occupy an acre of land. Density may also be increased under the procedures identified in an individual chapter for developments conforming to the standards in an individual chapter, but such procedures are not applicable to a PRD, which includes a separate process to increase density within a PRD.

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

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

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ___ day of ____, 2008.

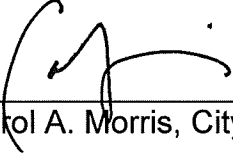
CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Carol A. Morris, City Attorney

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

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
January 3, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Jeane Derebey, Joyce Ninen and Dick Allen. Commissioners Theresa Malich and Jill Guernsey were absent. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

APPROVAL OF MINUTES

It was decided to reference the waterfront zones specifically on page 2 2nd paragraph and to remove the phrase “if they meet that definition” as it was redundant. Commissioner Pasin asked for clarification of a sentence in the first paragraph on page 3 and it was decided to remove the second half of the sentence which said “and Ms. Kester added that we could add a specific definition” and replace it with “in the waterfront zones”. Mr. Pasin also pointed out that he meant to express his disapproval of the 65,000 square foot limitation rather than 35,000 as stated on page 4.

MOTION: Move to approve minutes of December 20th, 2007 as amended. Ninen/Pasin – Motion passed unanimously.

OLD BUSINESS

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335** – Proposal by the City Council to amend the definition of gross floor area; create definitions for underground parking, basement, finished grade, and original grade; amend parking requirements to include maximum number of parking spaces for uses; and reconsider the maximum building sizes for WC, WM and WR zones.

Senior Planner Jennifer Kester went over her memo on underground structures and an e-mail from Randy Boss. She stated that she hoped to have them review the memo and then develop a memo to the City Council at the next meeting.

2. **Introduction of the first quarter work program:**
 - Implementation of Neighborhood Design Areas in Design Manual
 - Grandfathering Nonconforming Structures Inside and Outside the Waterfront Zones/ Triplexes in R-2 zone
 - Removal of Mixed Use District Overlay and determination of appropriate underlying zoning
 - Limiting Office Uses in Waterfront Millville
 - Appropriateness of RB-1 zoning district locations and allowed uses

Ms. Kester went over the first quarter work program, explaining that the work program won't get final approval until the City Council meeting of January 14th. She then gave a brief overview of each item in the first quarter, noting that the proposals do not have to be done in any specific order and that there will be one public hearing for all of them.

Implementation of Neighborhood Design Areas in the Design Manual

Ms. Kester talked about some of the proposals included in this amendment and that one of the issues were what do we do where neighborhood design areas meet.

Commissioner Jeane Derebey said that she thought that this would be difficult without knowing exactly what the design criteria would be in each area. Ms. Kester stated that she thought the opposite was true as the criteria would be difficult to develop if we're unsure how they would be implemented. She went on to say that the goal within this quarter was to talk about what the intent was and how neighborhood design areas should be implemented. Commissioner Harris Atkins asked if we would try to identify criteria and who would review them and Ms. Kester said yes; however, it could be a very simple approach. Ms. Derebey supported approaching it from a simplified standpoint. Mr. Atkins noted that they would get to those specifics at a later date. Ms. Kester pointed out where there are commercial areas that are not necessarily abutting parcels but could be addressed with some kind of hatched area on the map. Planning Manager Tom Dolan suggested that staff could look over the map and come up with some real life examples and case studies to help the discussion. Mr. Pasin said that he thought that the other area where there will be a problem is when someone owns three parcels and maybe one is in one design area and two are in another. Ms. Kester agreed that that would have to be addressed as well, pointing out that it would additionally complicate the situation if someone did a Boundary Line Adjustment and now their parcel is in two different neighborhood design areas. Mr. Atkins expressed that they may not understand the transition areas between these areas enough to come up with a fool proof solution.

Ms. Kester noted that they could discuss this after completing the other four items in this quarter since they will result in a public hearing and text amendment; whereas, this is merely a discussion.

Commissioner Joyce Ninen asked if the neighborhood design areas will have its own section in the design manual and Ms. Kester said that yes it will probably be its own chapter. Mr. Pasin pointed out that if you read the residential section, historic district section and the zone transition section it will become apparent what some of the issues may be. Mr. Atkins suggested that they devote an entire meeting with some DRB members to discuss this issue. Ms. Kester also stated that it may need to be discussed with a sub group.

Mr. Pasin said that he felt that how the design manual gets organized relative to this issue will become very important. Ms. Kester agreed that it will be important to look at how it is organized and integrated.

Ms. Ninen stated that she thought it would be helpful to have a refresher course on the design manual. She asked which area Ms. Kester felt would be good to start with and Ms. Kester answered that she had thought northwest industrial would be a good one to start with. Mr. Atkins asked if that was an area of great demand and Ms. Kester said that it was the area that our design manual does the worst job being specific. Mr. Pasin said that he felt the standards were restricting development from the intent of the zone. Ms. Derebey asked if this item was something that should be dealt with in the first quarter and Ms. Kester explained the thought process behind the items in this quarter and that it would have to be brought before the Planning and Building Committee if they wanted to change it. Ms. Kester reiterated that in order to continue the discussion on Neighborhood Design Areas, the Planning Commission wanted examples of transition areas, a refresher on the design manual and to get Design Review Board members involved. Mr. Pasin pointed out that maybe the Planning Commission needed new design manuals. Ms. Kester said that when the new comp plan is printed staff will also get them new design manuals.

Ms. Derebey asked about the comp plan amendment for 2008 that Mr. Atkins had asked about, pointing out that the land use map does not really reflect to goals of the city. Mr. Dolan said that he felt that it was important that our land use map and zoning map are consistent. Ms. Kester noted that the hurdle will be concurrency because if we up the designation to something that increases the intensity it will require concurrency which we do not have. She noted that if we are lowering the designation it will not be an issue. Additionally, she stated that the 2008 comp plan amendments will be looked at in the third quarter. Mr. Atkins noted that the impact of these two documents being incompatible is that we are encouraging development that is inconsistent with current policies and goals.

Grandfathering Non-conforming Structures Inside and Outside the Waterfront Zones/Triplexes in R-2 zone.

Ms. Kester went over the proposal and reminded the commission of a previous discussion on this topic. Mr. Dolan noted that on January 28th the Council will be considering the draft ordinance on an interim solution and that they are expecting a recommendation from the Planning Commission on a permanent solution. She explained that currently (except in the shoreline area) if a structure is damaged beyond 50% then it can't be replaced. She further stated that there had been some discussion of whether or not people should be able to rebuild. She noted the information that she had provided outlining how many triplexes and fourplexes were in the R-2 zone, 33% of the dwelling units in that zone are nonconforming. Mr. Pasin stated that they had had some discussions during the formation of the matrix and asked that perhaps they could look at some of those notes. Mr. Dolan pointed out that there were some other items within the proposed ordinance that dealt with process changes.

Removal of the Mixed Use District Overlay and determination of appropriate underlying zoning

Ms. Kester stated that this item had been on the work program for a couple of years. She noted that the City Attorney and the Planning and Building Committee had expressed the overlay should probably be removed. She further explained that if the overlay is removed it will effectively down zone some of the properties; therefore, we need to look at what the properties should be zoned. She stated that the MUD could become a zone; they could just leave the zones as they are or they could come with entirely different zones. Mr. Pasin said that what had always bothered him with this is that they don't seem to know what they really want in this area. Ms. Kester said there was a Mixed Use District land use designation in the Comprehensive Plan which might help. Mr. Pasin stated that with the advent of Harbor Hill Drive the vision for that area may not be the same. Mr. Atkins asked what the original intent was and Ms. Kester said that at that time there was a big push for mixed use types of development and for some flexibility. Mr. Dolan said that it isn't necessarily the uses that are allowed there that is the problem, but rather the process. Ms. Ninen said that mixed use zones are very popular and Ms. Kester said that the issue is just that people need to know what could be built next to them. Mr. Pasin said that the mixed use zones were really for more of an urban setting. Ms. Kester said she would bring the policies out of the comp plan to the next meeting to help with the discussion. She also noted that there had been a rezone to ED in the area. Ms. Ninen also noted that there is a proposed connection road and that it would make sense to have more retail development. Mr. Atkins said that once Harbor Hill Drive connects to Burnham it could really be a traffic issue if we add more retail uses here. Ms. Kester stated that traffic models that have been run have always assumed that this area is mixed use.

Limiting Office Uses in Waterfront Millville

Ms. Kester said that this item had been around the longest, proposed in 2005. She noted that it had been proposed prior to the land use matrix and the applicant was proposing the office uses only be allowed as incidental uses in existing buildings. She noted that this had come about as a result of an approved 3500 sq ft office building that has yet to be built. Additionally, Ms. Kester noted that they would have to think about what is incidental. She noted that office uses also have different impacts than some of the other uses already allowed in this zone. Mr. Allen said that he thought that the 3500 sq ft limit solved the applicant's concerns. Ms. Kester stated that it had been pointed out to the applicant and they still wanted to move forward with this amendment. Ms. Kester then pointed out that this would make a couple of buildings nonconforming.

Acting Chair Harris Atkins called a five minutes recess at 7:25 pm. The meeting was reconvened at 7:30.

Appropriateness of RB-1 zoning district locations and allowed uses

Ms. Kester stated that the Planning Commission had requested this back in 2006. She pointed out that she had provided the minutes and power point presentation that went to the Council on the RB-1 zones. Ms. Ninen noted that there were 12 RB-1 areas. Ms. Kester said that a lot of these items in this quarter will have heavy public involvement.

Ms. Kester then asked the Planning Commission which of the items they wanted to tackle at the next work study session.

Ms. Derebey stated that she would like to look at the RB-1 zoning, the mixed use overlay and nonconforming structures. Ms. Ninen agreed as she felt they should be able to get those done. Mr. Pasin said that he would like to look at nonconforming structures, the mixed use overlay and office uses in Waterfront Millville at the next meeting and leave the RB-1 issue until the meeting after that. Ms. Derebey said that she felt that there was more information for the three she had proposed. Mr. Atkins said that he felt the RB-1 issue was large. Ms. Kester stated that she felt that the nonconforming structures, mixed use overlay and office uses in Waterfront Millville could be covered at the next meeting. Ms. Derebey suggested working on just nonconforming structures and the mixed use overlay since everyone agreed on those. Ms. Kester agreed that working on those at the next meeting and then work on the other two at the February meeting was a good approach. Mr. Atkins agreed. Ms. Kester stated that she was shooting for either February 21st or March 6th for a public hearing. Mr. Dolan assured the commission that staff will make sure and get ample notice out for the public hearing.

UPCOMING MEETINGS

January 17th, 2008 – Work Study Session

Ms. Kester said that at the next meeting she will have a finalized memo for the City Council. She went through the memo she had provided and pointed out what she had changed. Ms. Ninen asked about Mr. Boss's e-mail regarding the 24' entrance and Ms. Kester said that she was thinking they could still forward their recommendation to the City Council and see if they agree with the Planning Commission approach and then we will discuss the specifics such as Mr. Boss's concerns, when we have a public hearing.

Mr. Atkins noted for the record that at the next meeting they will hold election of officers, finalize the memo to the City Council and then move on to a work study session on the two proposed amendments.

ADJOURNMENT

MOTION: Move to adjourn at 7:45 p.m. Derebey/Pasin – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
January 17, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Theresa Malich, Jill Guernsey, Joyce Ninen and Dick Allen. Commissioner Jeane Derebey was absent. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

ELECTION OF OFFICERS

Commissioner Harris Atkins nominated Theresa Malich to serve another term as Chair and Commissioner Jill Guernsey seconded the nomination.

Commissioner Joyce Ninen nominated Harris Atkins to serve another term as Vice Chair and Theresa Malich seconded the nomination.

MOTION: Move to elect Theresa Malich as Chair and Harris Atkins as Vice Chair. Ninen/Guernsey – Motion passed unanimously.

APPROVAL OF MINUTES

It was noted that at the bottom of page two it should say Mr. Pasin rather than Ms. Pasin, at the top of page two change the word “their” to “the” and spell out Boundary Line Adjustment.

MOTION: Move to approve the minutes for January 3rd, 2008 as amended. Ninen/Atkins – Motion passed unanimously.

Senior Planner Jennifer Kester noted that the second item on the agenda; Nonconforming Uses in the R-2 zone and nonconforming structures regulations, may have some conflict of interest issues since a Planning Commission member may have a chance to benefit and may need to recuse themselves. Ms. Kester suggested that the commission may want to move this to the last item on the agenda or limit the discussion to the nonconforming uses. It was decided that this item would be moved to the end of the agenda and Theresa Malich and Dick Allen would recuse themselves at that time since they own property in an R-2 zone.

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335** – To finalize a memo to City Council for further direction on the topic of underground structures. Memo includes new definitions for gross floor area, underground building and attic.

Ms. Kester pointed out the memo that she had drafted on the proposed amendments related to underground structures and asked that the commission look it over to assure that it conveyed their thoughts on the issue. She then talked about the draft definitions.

Planning Commissioner Joyce Ninen mentioned that she was unsure if underground building was the appropriate term and suggested perhaps space or area. Discussion followed on perhaps using underground floor area. Everyone agreed to change the term to floor area and Ms. Kester said that she would change the text and any references.

Planning Commissioner Jill Guernsey brought up an issue with the definition of gross floor area, to perhaps remove the word several and change floor to floor(s). Planning Commissioner Pasin asked why it states "or buildings" and Ms. Kester said that the issue is that by code a building that appears to be one can be separated by firewalls and technically be made into several buildings. Ms. Kester explained the performance standards. Planning Commissioner Harris Atkins said that the sentence implies that several buildings might be on one lot. He asked if it was still covered in the performance standards if we removed buildings. Mr. Pasin asked why someone couldn't have several buildings together under separate ownership. Ms. Kester explained that the exterior mass of the building is what is calculated. Mr. Dolan stated that this language will allow us to administer the code better. Ms. Guernsey suggested that it say "of each floor" rather than "at each floor". Everyone thought that "at each floor" was the appropriate phrase. Mr. Pasin suggested that they remove the phrase entirely and Ms. Guernsey agreed. Ms. Kester asked what would be calculated, the floor area or the entire area and explained that was why "at each floor" was necessary.

Mr. Pasin asked about interior balconies and mezzanines and how they are calculated. Ms. Kester explained how they were calculated and defined. Ms. Ninen asked about the mechanical equipment room and how it is calculated. Ms. Kester explained that the units that are not in a room would not be counted. Ms. Ninen clarified that gross floor area for the waterfront will be discussed at another time.

It was asked by Mr. Pasin if in Item B. it was referencing attached and detached and Ms. Kester replied that yes that was in the performance standards. Mr. Pasin then asked about underground floor area where it says 24 linear feet of access. He asked how that would work and Ms. Kester said that she believed that the decision was that this issue would be discussed after hearing the public input. They referenced an e-mail from Randy Boss and Ms. Kester further explained that they will decide on what that exact number is after the public hearing, this memo is just to let the council know that the commission wants to make a provision for access. Mr. Pasin asked why they would want to limit the access point so that someone would instead have acres of parking. Mr. Atkins reminded him that the Planning Commission is trying to allow underground parking in a reasonable way. Mr. Dolan suggested that it could say as required by the building code. Ms. Kester said that she would clarify in the council memo that these issues were not firm.

Ms. Kester then asked if they were done with the definitions and if everyone was okay with the memo. Ms. Ninen felt that the memo was very concise. Ms. Kester asked for a motion to approve the memo and direct Chairman Malich to sign it.

MOTION: Move to authorize the Chair to send this memo to council as amended. Atkins/Ninen - Motion passed with Mr. Pasin opposed.

Chairman Malich called a short recess at 7:00 p.m. The meeting was reconvened at 7:05 p.m.

2. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335** – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.

Ms. Kester displayed a map of the overlay area. She stated that the consensus among staff, the City Attorney and the City Council is that the overlay needs to be removed. She explained how overlays usually work, adding restrictions and that this one allows additional uses. Ms. Kester explained what would happen if the overlay were removed and the underlying zones were left, stating that some of the properties would be effectively down zoned. She stated that the comprehensive plan has designated this area as a mixed use area. Mr. Pasin said that if we remove the overlay and the road gets developed then there is an opportunity to rezone around it to something more appropriate. Ms. Kester pointed out 96th street and explained the proposed split diamond approach and how the new interchange may affect this area. She stated that this area will change so the question is whether we want to change it now or wait for when the interchange is put in and examine it then. Mr. Atkins said that it seemed like the Mixed Use District was a good idea and asked why it failed. Ms. Kester answered that some of the property owners have taken advantage of the zoning or are anticipating taking advantage of the Mixed Use District but first there was a transportation issue and then a sewer issue. Mr. Atkins said that the underlying zoning doesn't seem to make sense, but rezoning is a large project. Ms. Kester suggested that the Mixed Use District could become its own zone they could just rezone everything in the overlay. She said that there will be some property owners who won't like that. Mr. Atkins said that he had driven the area and it was quite amazing all the stuff that was in there. Mr. Pasin stated that he thought that some of the area actually didn't reflect the area where the uses would probably grow once the interchange is in place.

Ms. Guernsey asked about the effects of removing the overlay and just having the underlying zoning. Ms. Kester explained how the overlay is applied. Ms. Ninen suggested changing the Mixed Use District to include the uses currently in the underlying zone. Ms. Kester agreed that the Mixed Use District could be tweaked to include some of the uses and standards from the other zones. She said that she would most closely liken the Mixed Use District to the B-2 zone with a density calculation that is much lower. Additionally, she noted that the traffic studies that were done assumed highest and best use. Ms. Kester then explained how it would need to happen if they

were to create a mixed use zone stating that it would not be that difficult but would have to add some impervious surface limitations and some rewording.

Ms. Kester said that she could work on a proposal to make the mixed use overlay a zone. Mr. Pasin said that he was concerned about the section that distinguishes between different size parcels and Ms. Kester said that section may have to go away. Mr. Pasin said that he also had a concern with zone transition. Mr. Atkins agreed that was something to be considered, but suggested they pick an approach and then look at those issues. Ms. Kester then highlighted the land use designation. Everyone agreed that Ms. Kester would work on a mixed use district zone and then they could discuss the boundaries, etc. Mr. Pasin stated that he was concerned that some of the area needed to be another zone and everyone agreed that that may be true but that right now they just needed to figure out what a mixed use zone is and then decide what area will be within it and what some of the other properties might be zoned. Ms. Guernsey suggested that at the next meeting they have an aerial photo so that they can see what is there now.

3. Direct Council consideration of an ordinance that would standardize how residential heights are measured in Historic Districts.

Planning Director Tom Dolan explained that this was the result of the height issue with the two new homes being constructed along Harborview. He noted that there is a provision in the Historic District that is not in any other zone that says height is measured from natural grade for residential. He continued by saying that staff is proposing a small change that will make how you determine height consistent throughout the height restriction area. He explained that the change would be to change the wording to say “natural and finished grade” so that it would be the same for residential or commercial. Mr. Dolan stated that the City Council was asking for direct consideration on this item.

Mr. Pasin said that he thought it needed further discussion. Ms. Malich suggested that this might be a good subject for a combined meeting of the DRB and Planning Commission. Ms. Kester said that it is a larger question as to whether the height allowed is even correct. Mr. Dolan said he recommended that the larger discussion happen in the examination of the view basin plan. Ms. Kester explained how this will be more restrictive. Discussion followed on how structures are measured.

MOTION: Move to recommend the Council enter into direct consideration of this item. Ninen/Atkins – Motion passed unanimously.

Theresa Malich and Dick Allen recused themselves for the next item.

4. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0031 – Nonconforming Uses in R-2 zone and nonconforming structures regulations.

Ms. Kester referred everyone to the ordinance that the City Council is considering. Mr. Pasin asked about the section on non conformities and that he thought that it applied across the board. Ms. Kester explained that the change to all the other zones had never been passed by Council and now they are asking if this new language for R-2 should apply to the whole city. She pointed out that the new 17.68.035 is to replace 17.68.030. She went over other new sections and what sections they replaced and how they could be rewritten for all zones within the city rather than just R-2. Ms. Ninen asked if these code changes will solve the problem for the people who can't get insurance or financing. Ms. Kester said that yes, this should solve their problem. Ms. Ninen if R-2 usually only allowed up to a duplex and Ms. Kester said that cities are different so there is really no standard. Mr. Atkins asked if they were to make the uses conditional in R-2 would that have the same effect. Ms. Kester said that the triplex or fourplex might still be a nonconforming structure not just a nonconforming use. Ms. Ninen agreed that in addition to the nonconforming change the uses should be conditional. Ms. Kester said that they may also have to change the impervious surface standards. She also cautioned them that it may not result in many fourplexes due to the density standards. Mr. Pasin said that he felt it helped in affordable housing and density requirements. Ms. Kester also suggested that they may want to look at a minimum density and noted that minimum residential densities have been an issue. Mr. Atkins reiterated their desire to proceed with this ordinance revised to apply to the entire city and look at the R-2 standards with another text amendment to modify the uses and standards in the R-2 zone. Everyone agreed.

Ms. Kester clarified that the nonconforming allowance would apply to commercial and residential. Discussion followed on the ramifications of the continuation of nonconforming commercial uses. Ms. Ninen said that she felt that maybe commercial should not be allowed. Mr. Pasin said that he felt that it should apply to both. Ms. Guernsey went over the sections to clarify what issue each applied to. Ms. Kester explained and also gave examples of some nonconforming uses and structures. Mr. Atkins said that this issue is much larger than he originally thought. Ms. Guernsey said that right now she would like to limit it to residential. Ms. Kester said that they could have another work study session and staff could draft two different ordinances for consideration. Mr. Pasin reminded everyone that the commercial structures make up our community. Mr. Atkins agreed that there are many structures that are worth saving but that he just wanted to look at the issue further. Mr. Dolan suggested that staff could come with some examples of nonconforming structures and uses. Mr. Atkins said that he felt that the purpose is to address the problem raised and he thought they should look at it further. Ms. Guernsey clarified the language and its meaning and that the issue with respect to uses is do they allow any nonconforming use to rebuild if it's destroyed by an act of God. Mr. Atkins said that the other section that concerned him was the section about vacancy. Mr. Dolan reminded the commission that by State law nonconforming uses are designed to go away because if you don't want them to go away, you should rezone it.

UPCOMING MEETINGS

Ms. Kester reminded everyone that the next meeting is on February 7th and that two items will be coming back from this meeting and they also needed to tackle the other two items for this quarter. She suggested adding the item on office uses in the Waterfront Millville zone. Mr. Pasin suggested that for the Mixed Use subject they know what applications are currently in the system.

Ms. Kester then let the commission know that the Council had approved the work program and there was discussion that the Planning Commission might need more time and staff agreed that they would facilitate a modification to the work program if more time was needed rather than rush items through. Mr. Dolan said that probably in April they will have another joint meeting with the City Council. Mr. Atkins asked that they know about possible dates and Assistant Planner Diane Gagnon agreed to contact the City Clerk to coordinate possible dates.

ADJOURNMENT

MOTION: Move to adjourn at 8:38 p.m. Guernsey/Ninen – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
February 21st, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Harris Atkins, Theresa Malich, Joyce Ninen, Dick Allen, Jill Guernsey and Jeane Derebey. Staff Present: Tom Dolan and Cindy Andrews. Commission member Jim Pasin arrived at 7:05 pm

CALL TO ORDER: 6:10 pm

APPROVAL OF MINUTES:

MOTION: Move to table the minutes from February 7th, 2008 until meeting of March 6th, 2008. Atkins/ Ninen – Motion passed unanimously

NEW BUSINESS

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335-**
ZONE 08-0003 – Appropriateness of RB-1 zoning district locations and allowed uses in the RB-1 zone.

Purdy Dr. and 144th St NW

Ms. Guernsey asked what currently occupied the site. Mr. Dolan replied an auto repair business and a single family residence. Mr. Atkins stated that RB-1 would be an appropriate use. Ms. Ninen felt that RB-2 would be a more appropriate use. Ms. Derebey asked if there had been any single family residences in the affected area. Ms. Ninen and Ms. Guernsey pointed out the residential homes in the area. Mr. Allen asked if the auto repair shop would be non-conforming. Mr. Dolan replied yes.

Purdy Drive

Mr. Dolan pointed out the site on Purdy Dr. noting that Aspen Land Surveying Company currently occupied the site and that the use would continue to be a permitted use. Mr. Atkins asked if it would be an appropriate use.

Sehmel Drive

Mr. Dolan described the Sehmel Drive piece. Ms. Ninen asked if it had been included in the Burnham / Sehmel Annexation. Mr. Dolan replied yes. Mr. Dolan stated the annexation area included approximately 380 acres incorporating all of the UGA area in to Purdy extending over to the Women's Prison. Mr. Allen asked what the zoning designation would be. Mr. Dolan replied predominantly R-1 with some ED zoning. Mr. Atkins asked if the applicant had been willing to zone to current zoning.

Peacock Hill Ave and Ringold Ave

Ms. Derebey and Ms. Malich felt the property should be zoned R-1. Mr. Atkins suggested R-2 multi-family would be a more appropriate use. Ms. Ninen and Ms. Derebey agreed residential with a higher density would be appropriate. Mr. Dolan suggested other uses such as nursing homes or assisted living would also be allowed. Mr. Atkins agreed it should be changed to R-1 or R-2.

Burnham Dr.

Mr. Dolan noted the property included 3 lots situated between Burnham Dr. and Harborview Dr., next to the Puerto Vallarta Restaurant explaining that the zoning to the north would be B-2. Ms. Malich felt that RB-1 would be a nice transition zone. Ms. Guernsey discussed rezoning the lots to different designations. Mr. Atkins asked if the lots would be conforming uses. Ms Malich preferred RB-1 suggesting that the lot abutting Burnham Dr. be a higher use than the lots fronting Harborview Dr.

Peacock Hill Ave and North Harborview

Mr. Dolan noted the areas surrounding the site as single family residential. Ms. Malich noted single family would be an appropriate use. Mr. Atkins and Ms. Ninen agreed that RB-1 was appropriate. Ms. Malich would like to keep it as is.

Stinson Ave – (Spadoni Corner)

Ms. Ninen explained her concern that the site currently operated as a non-conforming site suggesting a zoning of R-2 or R-3 would be more appropriate. Mr. Allen suggested commercial zoning. Ms. Ninen disagreed noting traffic concerns suggesting a higher density residential would be the most appropriate. Ms. Malich agreed asking if other sites in the vicinity would also have to be rezoned. Mr. Dolan responded no. Ms. Derebey and Ms. Ninen had concerns with rezoning to R-2. Ms. Malich suggested mixed use buildings. Ms. Ninen agreed. Ms. Derebey explained the location would be good for new restaurants. Ms. Malich asked if the property were to be changed to mixed use would another dirt place be allowed. Mr. Dolan replied no.

Soundview and Harborview – (Haub property)

Ms. Ninen asked if the property would be impacted by the shoreline master program also asking if there had been any plans for development. Mr. Dolan replied no suggesting that RB-1 could be a good use. Ms. Ninen and Ms. Derebey agreed. Mr. Atkins asked if the designation in the comprehensive plan would be single family residential. Mr. Dolan replied yes. Mr. Atkins suggested leaving the property zoned as is.

Grandview and Stinson

Ms. Ninen asked if the property close to the freeway had been included. Ms. Malich suggested a more intense residential zoning. Ms. Malich would like to see what the public has to say about the area. Mr. Atkins discussed the property to the east of Stinson Ave explaining that it would make more sense for those properties to be included in an RB-1 zone however the other properties closer to the freeway would be better zoned for restaurants and service stations. Ms. Ninen agreed.

West Side of the Highway - Near Stroh's Field

Mr. Dolan noted that the property bordered the proposed Pierce Transit Park-n-Ride facility to the north and single family residential to the south. Ms. Ninen suggested that RB-2 would be an appropriate zone. Mr. Allen agreed stating as long as there would be sufficient buffering. Ms. Derebey agreed

Top of Soundview

Ms. Ninen stated that the zoning appeared appropriate. Ms. Malich agreed and suggested that they move on to the next item.

56th St and 38th Ave

Mr. Dolan discussed the business in the vicinity, a gas station, veterinarian clinic and a daycare on one side a chiropractic clinic and office across the street and SFR north of 38th. Ms. Guernsey suggested commercial. Mr. Pasin explained that attempts had been made in the past to use some of the property as commercial for development of a mini-storage facility. Mr. Dolan suggested that the uses be looked at again for appropriateness and gave staffs recommendation that the commission go ahead with the public hearing giving the public the opportunity to comment.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335-

ZONE 08-0001 (Previously ZONE 07-0031) – Nonconforming use and structure amendments.

Talking Point #1: Should the provision for reconstruction of nonconforming uses in the event of an act of nature be extended to only residential nonconforming use or all nonconforming uses?

Mr. Pasin felt that the concern should be the use in a residential district not the structure. Mr. Dolan explained it may not be a residential zone it could be an RB-2 use in a C-1 zone. Ms. Derebey felt that if the structure had been destroyed then the nonconforming use should not be allowed to return. Mr. Dolan explained that the concern had been prompted by a tri-plex in a nonconforming zone. Mr. Atkins asked if structure should be damaged at 50%, no matter what the use, could they be rebuilt within 1 year. Mr. Dolan noted that the rule had been changed to 100% asking should the rule apply to residential and commercial. Ms. Derebey stated that she did not remember the issue of use as being a part of the conversation. Ms. Malich asked what the point would be in rebuilding if you could not have the same use. Ms. Derebey felt that if it is a non-conforming use the nonconforming use should not be allowed to return. Mr. Dolan explained that if the uses in some zones could be changed the use could then become conforming. Ms. Derebey suggested that the tri-plex issue should be reviewed. Mr. Atkins stated that by making the use a conforming use the issue would go away but not the problem of rebuilding them. Mr. Allen felt that losing the nonconforming use would be too severe. Ms. Guernsey felt that someone who had already built there should be allowed to rebuild both residential and commercial in the event of destruction by nature. Ms. Derebey agreed that due to an act of fire they should be allowed to rebuild the structure. Ms. Malich and Mr. Allen agreed. Ms. Ninen disagreed and would be opposed. Ms. Derebey, Mr. Atkins, Mr. Pasin, Ms. Guernsey and Mr. Allen agreed. Ms Ninen disagreed.

Talking Point #2: In the event of a nonconforming use reconstructing after an act of nature, should the structure / premise containing the use have to comply with only the current building/fire codes or should we ask that the structure comply with any many (Design Manual, Critical Area, Performance Standards) as possible while still maintaining the use.

Ms. Guernsey felt that the nonconforming uses should be brought up to conformity to the extent possible asking for clarification regarding the building size limits. Ms. Malich explained that would be one of the requirements. Mr. Pasin had been concerned with the downtown historic district front setback requirements. All members agreed that nonconforming structures should comply with as many applicable codes as possible when rebuilt.

Talking Point #3: If we allow a nonconforming structure (with a conforming use) to rebuild after an act of nature, should it only comply with building and fire codes, or should we try to get compliance with the Design Manual or other performance standards, to the extent possible.

Commission members discussed talking point #3. Mr. Pasin stated his concern that it could make rebuilding impossible for the property owners. Mr. Dolan explained the property owner would be asked to become compliant only if it would be possible if not they would still be able to rebuild. Ms. Malich felt that the structures should fit in with other structures in the area. Mr. Atkins asked how the regulations would be negotiated. Mr. Dolan stated that in Tacoma anything rebuilt had to meet the current code requirements. Ms. Malich agreed that redevelopment should comply with the same design guidelines as new development. Mr. Pasin had been concerned that matching some of the older buildings would be difficult pointing out that a structure should be able to be rebuilt to the standards that it was previously. Ms. Guernsey asked how that would be stated. Mr. Dolan explained that two alternatives could be drafted for commission member's review and suggestions could be made prior to the public hearing. Ms. Guernsey asked if a list could be generated of the codes that should be considered. Mr. Atkins suggested the board could agree on an opinion but not commit until after public comment has been received at the public hearing. Mr. Allen also would like the public's opinion. Mr. Dolan asked for suggestions for language. Ms. Malich suggested that all structures come into compliance to the extent possible. Mr. Atkins, Ms. Ninen and Ms. Derebey agreed. Mr. Allen and Mr. Pasin disagreed. Ms. Guernsey agreed to the extent that there should be no loss of square footage emphasizing that the language should be clear. Mr. Dolan explained that if a structure had been destroyed and could not meet the design requirements the Design Review Board could use their discretion for approval.

Mr. Atkins left at 8:00 pm.

Talking Point #4: Should an allowance be given to a property owner who intentionally alters or damages a nonconforming structure (such as a remodel).

Mr. Pasin asked regarding larger structures what would be wrong with remodeling 1/3rd at a time. Ms. Guernsey asked if the structures would be required to stay within the building footprint. Ms. Malich commented that intentionally altered or damaged nonconforming structures should not be allowed to rebuild as non-conforming. Mr. Allen asked if the structure had been a SFR and replaced by a new and better designed SFR would that not serve the community better than what had been there before. Mr. Dolan explained that a SFR can be repaired or remodeled but could not be completely torn down and rebuilt to the pre-existing nonconformity. Mr. Pasin agreed with the remodel situation but if the home is intentionally damaged he would not agree. Mr. Dolan suggested that staff could draft the ordinance and present it at the public hearing for discussion. Ms. Ninen discussed the percentage of structure that would be allowed to be replaced. Mr. Dolan clarified that percentage of allowable replacement for remodels at 50 % over a lifetime of the structure. Mr. Allen asked if there would be time limits. Ms. Guernsey responded yes 1 year. Mr. Pasin asked if the would be based on the application submittal or the complete application. Mr. Dolan responded a complete application. Mr. Allen asked if provisions had been provided for extensions. Mr. Dolan responded no.

Ms. Malich and Mr. Allen leave at 8:15 pm

ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district

Mr. Dolan discussed the number of nonconforming tri-plex and four-plex units inside city limits asking if commission members would like to change the code to allow them as conditional uses explaining that the density would also need to be changed. Ms. Ninen discussed the minimum density requirements. Mr. Dolan explained that minimum density had to meet the growth management goals noting that it could be a discussion for city council and planning commission to discuss later, noting that they should not be penalized for not meeting density. Mr. Pasin asked if a minimum had been stated in R-1. Ms. Guernsey stated we are talking about adding the minimum explaining that it would be urban density so it should be 4 units per acre and only for new structures. Ms. Derebey asked how that would be applied to existing uses. Ms. Guernsey suggested allowing them in R-2 zones. Ms. Derebey asked how that would apply to existing properties. Mr. Pasin asked if they would be permitted out right in R-2 Ms. Derebey stated that R-2 seemed to be the proper place for them. Ms. Guernsey agreed but as a conditional use. Ms. Derebey asked why a conditional use rather than permitted use. Ms. Guernsey explained that a conditional would provide the public an opportunity to comment. Mr. Dolan summarized the conditional use criteria. Ms. Derebey and Ms. Ninen agreed that it should be a conditional use. Mr. Pasin disagreed.

ADJOURNMENT

MOTION: Move to adjourn. Derebey / Ninen – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session and Public Hearing
March 6, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Theresa Malich, Jill Guernsey, Joyce Ninen, Jeane Derebey and Dick Allen. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

APPROVAL OF MINUTES

MOTION: Move to approve the minutes of February 7th, 2008. Ninen/Allen – Motion passed unanimously.

Discussion followed on the minutes of February 21, 2008. The following changes were suggested by Ms. Ninen and agreed to by the commission.

On page 1 change Mr. Atkins *asked* to Mr. Atkins *stated*.

Page 2 add *that RB-1 was appropriate*.

Typo on page 2 *Soundview*.

Page 3 change *than* to *then*.

Page 3 remove second that

Talking point 2 – replace *with talking point #2 with that non conforming structures comply with as many applicable codes as possible*.

Page 3, add *the structure*.

Remove *Ms. Malich agreed suggesting that there would be no need to further discuss this item*.

MOTION: Move to approve the minutes with the changes discussed. Ninen/Guernsey – Motion passed unanimously.

WORK-STUDY SESSION

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments.**

Senior Planner Jennifer Kester went over the proposed changes to the ordinance as a result of the previous meeting. She noted that the council has passed ordinance 1122 which allows for reconstruction of non conforming structures due to acts of nature. Ms. Kester stated that due to the extent of the requirements in this section it should probably say that there is a specific permit necessary for a non conforming use and/or structure. She then went over the section on nonconforming uses of land. She stated that the commission had been interested in what codes would have to be met in order to rebuild

and Ms. Kester referred them to her staff report where it listed the codes that may be used for review.

Mr. Pasin asked about the eight codes and would there be a problem with concurrency. Ms. Kester explained that there is an engineering clause that allows for use of their previous concurrency for five years. Mr. Atkins clarified that if the city was under a moratorium and the use was completely destroyed it would not affect their ability to rebuild. Ms. Kester confirmed that was correct. Ms. Guernsey asked about the sign ordinance and it was clarified that they may need to bring the sign into compliance. She then asked about the reference to Chapter 17.01 and asked if it should be Title 17 and Ms. Kester said she would check the reference.

Mr. Pasin asked about page 1 where it talks about a replacement value, and asked why use replacement value instead of the square footage of the structure? Ms. Kester said that in the past this was how we measured non conformity. He asked how the replacement value is determined and Ms. Kester explained how it is determined in the building code. Mr. Pasin thought the replacement value was subjective. Ms. Kester explained that she thought that it was replacement value because it could be just a wall that does not involve any square footage. Mr. Pasin then asked about the term "lifetime". Mr. Dolan stated that that section is only for when an owner wants to voluntarily demolish his structure. Mr. Pasin stated that he was concerned about using both terms "use" and "structure" and Mr. Dolan explained that it is done intentionally as they are two very different things. Mr. Pasin then asked what does "otherwise lawful" mean in 17.68.040 and Ms. Kester explained that it may be in violation of fire codes. Mr. Pasin asked if .040 (a) should say "currently" in effect. Everyone thought it was fine as it was.

Ms. Derebey thought maybe there should be a reference to "for the purpose of remodeling" and Ms. Kester said that it would be difficult to determine their intent in demolishing a structure. It was decided to perhaps change intentional destruction to intentional alteration. Ms. Kester then went over the proposed order of the sections.

Ms. Derebey suggested that the discontinuance of nonconforming structures and uses be changed to uses and structures and Ms. Kester agreed.

Ms. Kester pointed out the statement that nonconformities shall comply with all other applicable codes to the extent possible. Mr. Pasin asked about the requirement to comply with applicable codes and gave an example that if part of the building is destroyed and you have to have it meet design (i.e., historic windows) and then the rest of the building does not have those types of windows. Ms. Kester went over various scenarios and that it may be difficult to determine what is the extent possible in a theoretical manner without an actual application to review. Mr. Dolan addressed the historic window solution and stated he couldn't imagine requiring three windows to look different from the rest of the building. Ms. Guernsey thought that the previous discussion was that they had to make application within one year not that it had to be

completed. Ms. Kester referred her to ordinance 1122 on page four where it states that the application had to be made within a year.

Chairman Malich called a 5 minute recess at 6:56. The meeting was reconvened at 7:04 p.m.

PUBLIC HEARING

1. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.

Ms. Kester went over the request by City Council for removal of the Mixed Use District overlay. She explained the two options; Option A, removal of the overlay entirely and Option B, to implement a new mixed use zone which would be a harmonization of the uses allowed in the MUD overlay and underlying zones. Ms. Kester highlighted the changes. She stated that staff is also recommending a new definition of townhouse in order to implement the standards in the MUD zone.

Chairman Malich opened the public hearing at 7:10 p.m.

Don Wilcox, Burnham Drive, presently zoned B-2 with the MUD overlay. Mr. Wilcox asked how this would affect his property. Ms. Kester pointed out his parcel and explained that if the MUD overlay was removed his property was B-2, if it was the new mixed use zone, the uses would be the same but some of the performance standards may change.

Mark Shoens, 2002 Sullivan Drive NW – Mr. Shoens stated that he owns property on Burnham Drive NW and have been waiting for water, sewer and traffic concurrency. He said he was trying to figure out if he was going to lose some ability to develop his property. Ms. Kester said that he was zoned R-1 with an MUD overlay, she explained the current standards and the two options being presented tonight. He asked why they wanted to remove the overlay and Ms. Kester explained. Mr. Shoen expressed that he would prefer Option B.

Jerry Larimore, 4710 Gay Rd. Tacoma WA – Mr. Larimore stated that he owns property along Burnham Drive and that it sounds like taking something if Option A were implemented so he would prefer Option B. He asked about the tax implications. Ms. Kester explained that without knowing how Pierce County assesses the property now, she couldn't answer. She continued by saying it would depend on if the assessor treasurer currently takes the overlay into consideration.

Chairman Malich closed the public hearing at 7:20 p.m.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments

Chairman Malich opened the public hearing at 7:21 p.m.

Senior Planner Jennifer Kester explained that the proposal is to change the nonconforming use and structures section of code. Ms. Kester explained what this section of code pertains to. She stated that the council recently passed an ordinance that nonconforming residential uses in the R-2 zone and that use burned down or was destroyed by some other act of nature, 100% of it can be rebuilt. She explained what the previous code had stated. She continued by explaining that the City Council asked that the Planning Commission examine whether that should apply to all zones rather than just R-2. She went over some of the changes that would be implemented with this ordinance.

George Pollock, 2808 Harborview Drive – Mr. Pollock said he was very thankful for the passage of Ordinance 1122 and was concerned by the remodel portion of the ordinance. Ms. Kester explained that replacement value only applied to things that would require a building permit, not carpets, lighting, etc. Ms. Kester stated that there were no provisions in today's codes for remodel of nonconforming structures and that this proposal would at least allow for it.

Due to the arrival of additional interested citizens, Chairman Malich re-opened the public hearing on Item 1, Removal of Mixed Use District overlay and determination of appropriate underlying zoning, at 7:25 p.m.

Wade Perrow, 9119 N Harborview Drive – Mr. Perrow stated that he agreed with the idea of removing the MUD overlay. He continued by saying that there are certain elements that can't just be removed.

Jill Guernsey explained the options in the proposal. Mr. Perrow said that he wasn't sure we needed another zone in the city. He asked that the Planning Commission make sure that the city has an adequate employment base.

Ms. Kester assured Mr. Perrow that the uses currently allowed in the overlay would be allowed in the mixed use zone. He stated he didn't think it was the best zoning for the city. He said that he had marked up the matrix to try to illustrate what he felt the zone should be for the area. Ms. Guernsey asked which of the current zoning districts he would suggest for the area. He explained why he thought it should be zoned differently and that this was an opportunity to really examine what should happen in this area. Harris Atkins asked if anyone had further comments after hearing Mr. Perrow's comments.

Mr. Larimore said that he thought that in a mixed use zone you could accomplish what Mr. Perrow was talking about but he also felt that transitioning between zones sounded nice as long as you do not down zone someone's property. Mr. Pasin asked how he envisioned his property being used and he said he didn't know.

Chairman Malich closed the first and second hearing at 7:40 p.m.

3. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district.

Dick Allen and Theresa Malich recused themselves from this item.

Ms. Kester went over the proposal and the proposed changes within it.

Vice Chairman Harris Atkins opened the public hearing at 7:45 p.m.

There being no one wishing to testify Mr. Atkins closed the public hearing at 7:47.

Mr. Atkins called a short recess at 7:48 p.m. The meeting reconvened at 7:50 p.m.

WORK-STUDY SESSION

3. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district.

Ms. Kester noted that there is a technical amendment to go along with this amendment that addresses how we calculate density since we are putting a minimum density in. Mr. Atkins asked if anyone had any reason for not proceeding with asking staff to develop the ordinance. Ms. Guernsey asked if the changing of the density was also part of that and everyone agreed. Ms. Ninen and Ms. Guernsey said they were in favor. Ms. Derebey asked about how density worked and Ms. Kester explained. Ms. Derebey agreed with the proposal. Mr. Pasin said that during previous discussion he had felt that triplexes and fourplexes should just be permitted outright and others had felt differently but he would like to see if anyone had changed their opinion. Ms. Ninen said that they had discussed this at the last meeting and she felt it had to be conditional. Ms. Derebey agreed.

MOTION: Move to forward a recommendation to the City Council to add triplexes and fourplexes as conditional uses in the R-2 zone, set a minimum density of 4 dwelling units per net acre and increase the allowance for impervious coverage from 40% to 60% of the total lot area. Guernsey/Ninen – Motion carried unanimously.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments

Ms. Kester went over the items that they had discussed at the work study session. She asked if 50% replacement value was the right trigger. Mr. Atkins brought up the testimony of the gentleman who was thinking about remodeling his unit interior. Ms. Kester stated that replacement costs are only those things necessary to build the building, not cosmetic things. Mr. Dolan suggested that they make interior remodels exempt. Mr. Atkins stated that he knew of a case where a family moved into a home

where there was no basement so they excavated so they had a full basement and had to put in a new foundation, this would have exceeded the 50%. He added that someone should not be penalized for remodeling their home. Mr. Atkins asked Ms. Malich if she could have done what she did to her home. Ms. Derebey said that Ms. Malich didn't really do any demolition because she didn't really tear anything down. Ms. Kester said that perhaps siding would be part of a replacement cost. Mr. Pasin said that if someone wants to put in new windows, roof, etc they could exceed 50%. Ms. Kester pointed out the section on repair and maintenance. Mr. Pasin said that maybe the question is what is remodel. Ms. Kester gave an example. Mr. Dolan stated that we had a customer with a nonconforming structure that they were going to tear down two walls in 2007 and replace them and then tear down two more in 2008 and replace them. Ms. Malich explained her situation when she tore down her garage that was nonconforming. Ms. Kester said that she really felt that there should be an interior remodel exemption, but the question remains as to how much exterior work is okay.

Mr. Pasin felt that they were trying to put together something that deals with the ugly and have lost sight of the people trying to maintain and update their properties. Mr. Dolan stated that every change here actually makes the code more liberal not more difficult. Discussion followed on the difference between remodel and repair and maintenance. Mr. Atkins said you might have a facility that was nonconforming because it didn't meet setbacks and this might prevent someone from remodeling their home. Ms. Kester explained that if you had a structure that met the front and side but not the rear, then just the portion of the house that is in the setbacks would be nonconforming. Ms. Ninen asked about solar panels and skylights would that be considered a structural change. Mr. Dolan pointed out the provision that nonconforming structures can be remodeled as long as it doesn't increase the nonconformity. Ms. Kester explained it further. Mr. Dolan pointed out that the rebuild provision, if it's damaged by an act of God, is extremely liberal. Mr. Atkins asked what percentage of homes within the historic district were nonconforming and Ms. Kester said that perhaps 75%. She noted that we have approved lots of remodels for nonconforming structures because it doesn't expand the nonconformity. Ms. Guernsey asked if there was a variance provision with this and Ms. Kester went over some variance scenarios. Mr. Pasin said that he felt that the ordinance needed to be broader. Ms. Derebey felt that with the interior remodel exemption this had been hammered out. Mr. Allen asked what if someone has a rundown house and they want to build something new. Mr. Dolan said that they could rebuild but they would have to meet the code or get a variance. Mr. Allen felt that we should appreciate that someone wants to build something new. Ms. Ninen stated that if someone had an old house maybe someone should get it listed as a historic structure. Ms. Guernsey said that she would like to see additional language including what they had discussed.

Ms. Kester said that she would come back at the next meeting with actual code language.

MOTION: Move to direct staff to prepare an ordinance incorporating the changes discussed tonight for our final consideration at the next feasible meeting. Atkins/Derebey –

Mr. Atkins stated that his intent was to include an exemption of interior remodeling and the other items that Ms. Kester had noted within the text. He stated that it is difficult to legislate common sense and asked the commission members to give this issue some thought for further discussion at the next meeting. Mr. Pasin felt that they should be cautious and that just because something gets put within the setbacks it doesn't necessarily improve views. Mr. Allen said that views are not really a consideration.

Motion passed unanimously.

1. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.

MOTION: Move to defer this item to the next meeting. Ninen/

Ms. Kester went over the things that were still left to discuss within this quarter. Mr. Atkins went over what the options were and what some of the public had said tonight. He asked what everyone else thought and if they wanted to examine other zones. Ms. Derebey, Ms. Malich and Ms. Ninen stated they liked the new Mixed Use zone. Mr. Pasin said he wanted to discuss it further. Ms. Guernsey thought that Mr. Perrow had a good idea to reexamine the entire area but the City Council really doesn't want the commission to take the time to do that right now. She stated that she prefers Option B assuming that we need to do something now. Mr. Allen said that if it's just a fix then he would prefer Option B unless we want to take on a larger task. Mr. Atkins said he would go with the mixed use Option B, he didn't think that the area was big enough to warrant several different zones.

Ms. Ninen's motion died for lack of a second.

MOTION: Move to forward a recommendation to the City Council for the text amendment as written on the condition that the ordinance is brought back for review.

Ms. Kester pointed out that it is really an area-wide rezone and Mr. Atkins withdrew his motion.

MOTION: Move to have staff prepare an area wide rezone for the mixed use district with the currently configured boundaries. Atkins/Ninen – Motion passed unanimously.

ADJOURNMENT

MOTION: Move to adjourn at 8:50 p.m. Ninen/Derebey – Motion passed.



**Subject: Agreed Order for Eddon Boat
Sediment Remediation Project**

Proposed Council Action:

Authorize the Mayor to sign the Agreed
Order agreement with Department of Ecology.

Dept. Origin: Administration

Prepared by: Rob Karlinsey

For Agenda of: May 27, 2007

Exhibits:

Initial & Date

Concurred by Mayor:

CLH 5/20/08

Approved by City Administrator:

PKK 5/20/08

Approved as to form by City Atty:

Approved by Finance Director:

DP 5/20/08

Approved by Department Head:

Expenditure	Amount	Appropriation
Required	Budgeted	Required
See fiscal consideration below		

INFORMATION / BACKGROUND

In order to obtain Department of Ecology grant funding for the environmental cleanup at Eddon Boat, it is necessary for the City to enter into an Agreed Order agreement with the Washington State Department of Ecology. The remediation work to be performed is described in Appendix B, "Cleanup Action Plan," in the Agreed Order.

Once the City Council authorizes the Mayor to sign the Agreed Order, a public comment period will begin soon thereafter. If no major issues arise during the public comment period, Department of Ecology will finalized the Agreed Order.

FISCAL CONSIDERATION

Funding for this project was outlined in the cleanup construct contract award at the May 12, 2008 City Council meeting. The agreed order is in keeping with the cleanup construction contract.

BOARD OR COMMITTEE RECOMMENDATION

The Design Review Board reviewed the project approximately one month ago.

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to sign the Agreed Order agreement with Department of Ecology.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:

The City of Gig Harbor

AGREED ORDER

No. DE _____

Regarding: Eddon Boat Park
Ecology Facility Site No. 1301959

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- EXHIBIT D. Public Participation Plan

I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the City of Gig Harbor (hereafter referred to as “the City”) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires the City to perform actions to remediate contaminated sediments and soils at the Eddon Boat Park site in Gig Harbor, Washington, in accordance with the Cleanup Action Plan included as Exhibit B to this Order. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. The City agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the City’s responsibility under this Order. The City shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

IV. DEFINITIONS

Unless otherwise specified herein, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as Eddon Boat Park and is generally located at 3711 and 3805 Harborview Drive, Gig Harbor, Washington. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors

currently known to Ecology, the Site is more particularly described in the Site Diagram (Exhibit A). The Site constitutes a Facility under RCW 70.105D.020(4).

B. Parties: Refers to the State of Washington, Department of Ecology and the City of Gig Harbor, Washington.

C. Potentially Liable Person (PLP): Refers to the City of Gig Harbor, Washington.

D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order. The terms “Agreed Order” or “Order” shall include all exhibits to this Order.

E. CAP: Refers to the Cleanup Action Plan developed for this site and included as Exhibit B to this Agreed Order.

F. cPAH: Refers to carcinogenic polyaromatic hydrocarbons.

G. TPH: Refers to total petroleum hydrocarbons.

H. TBT: Refers to tributyltin.

V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by the City:

- A. The Eddon Boat Park property consists of the upland, intertidal, and subtidal portions of Pierce County tax parcels 022105-3074 and 022105-3050. The property comprises approximately three acres, with roughly one third of the land uplands and the remainder consisting of tidal and subtidal lands. The site includes this property and portions of adjacent properties where contamination from the facility is found.
- B. The City purchased the property in March, 2005. The funds for purchase of the property were raised through a Land Acquisition and Development General Obligation Bond approved by the voters of the City. The land was purchased with the intention of developing it into a park, including preservation of the historic boatyard facilities.
- C. The City entered Ecology's Voluntary Cleanup Program in 2005 to receive technical assistance from Ecology for the site investigation and cleanup planning. Under the Voluntary Cleanup Program, the City submitted to Ecology several Technical Memoranda addressing site investigations and interim remedial actions. In the early part of 2008, Ecology and the City decided to enter into this Agreed Order for completion of the remedial actions at the site. A summary of the Technical Memoranda and the opinions issued by Ecology are included in Exhibit C. The site investigations and remedial actions taken prior to the issuance of this Agreed Order are also described below in this section of this Order.
- D. The north parcel of the property was operated as a boat building and repair facility beginning in the 1940's and continuing until the City purchased the property in 2004. There is a two-story wood frame boat repair building on the northernmost portion of the property. An older house with a wooden deck is present to the south of the boat repair buildings. A 500 gallon above-ground heating oil tank was present near the boat shop, and a 500 gallon underground heating oil tank was present next to the residence. These tanks are no longer present.
- E. Two boat haul out railways are present. One railway enters a roofed shed attached to the waterward edge of the building. The second railway lies alongside and to the south of the first. Both railways extend into the intertidal marine area to approximately 0 feet mean lower low water tidal level (0' MLLW). The boat haul out rails and carriage assembly are of historic value to the future park. Although these structures are slated to

be removed to facilitate the sediment cleanup, the City plans to replace them in the future.

- F. A 120 foot long pier extends over the tidelands and is connected to a floating dock with ramp/gangway. The elevation of the subtidal lands below the floating dock are approximately -4 to -6- MLLW. The pier and dock are also of historic value to the future park. Although these structures are slated to be removed to facilitate the sediment cleanup, the City plans to replace them in the future.
- G. There were two buildings on the south parcel that were demolished by the City in 2006. The building formerly in the middle of the site was a concrete block structure with a covered carport that was present on the site since the 1950's. At one time (dates), this was used as a City maintenance shop. It was most recently was used as a retail antique shop. This building is referred to in the project documents as "Pandora's". The building formerly on the southernmost part of the site is believed to have originally been part of a gravel loading operation and was most recently used as a retail shop, referred to in the project documents as "Wild Birds Unlimited". There were several concrete retaining walls behind this building that are believed to have been associated with the gravel loading operation. There were also remnants of a gravel loading crane assembly adjacent to a bulkhead at the south part of the site.
- H. The City demolished the former maintenance shop building and the former gravel operation building, cleared brush, and graded and seeded the southern part of the site in 2006.
- I. Two old wooden bulkheads remain at the shoreline of the south part of the site.
- J. Habitat improvements are integrated into the project plans for the sediment and upland remediation. Specifically, the two wooden bulkheads will be removed, and the land will be graded to gently slope to the harbor. This will increase the upper intertidal acreage, and create a 'pocket' estuary. The new shoreline bank will be covered with habitat-friendly substrate.
- K. A terrestrial ecological evaluation (TEE) was prepared for the project in March 2008 (Technical Memorandum No. 10). The TEE concluded that a simplified terrestrial

ecological evaluation was appropriate for this site based on the criteria in WAC 173-340-7490 through 7493. The simplified TEE compared site data to the screening levels provided in Table 749-2 of the MTCA. One sample in surface soil exceeded the screening level for copper and one surface sample exceeded the screening level for chromium. Ecology concurred with the conclusions of the simplified TEE report that these individual exceedances do not represent overall site conditions, and that site grading that occurred in preparation for park development has very likely diminished the concentrations at the two individual locations significantly.

L. Between 2005 and 2008 the City submitted several technical memoranda and other documents to Ecology summarizing sampling activities and interim remedial actions that have been taken at the site (refer to Exhibit C). Ecology identified ten areas of concern from its review of the site investigations. These are summarized below and discussed in more detail in the following subsections of this Order. Ecology has determined that the Site has been adequately investigated and that cleanup actions can be selected and implemented.

1. 500 gallon underground heating oil tank near the residence.
2. 500 gallon above ground heating oil tank near the boat shop.
3. Elevated heavy oil petroleum hydrocarbons and elevated lead in surface soils underneath covered carport of former maintenance shop ("Pandora's") building. This area was represented by soil boring "AG-8".
4. Fruit tree and yard area. Ecology expressed concern about potential for arsenic or lead contamination from the potential historic use of arsenical pesticides, or from the areawide contamination resulting from aerial deposition from the former Asarco copper smelter in Tacoma.
5. An area below the former Pandora's building where a discarded oil storage tank had been found during brush clearing, and later test pits unearthed three used oil filters. This area was known as the "Lower Terrace" area.
6. Potential for oil contamination from the former gravel operation's crane area adjacent to the south bulkhead.
7. An area on the adjacent property to the north, just outside of the north side door to the boat shed containing elevated carcinogenic polycyclic aromatic hydrocarbons (cPAH). This area was represented by soil boring "AHA-1".
8. An area at 8 – 10 feet below ground surface on the central/east part of the site containing elevated cPAH. This area was represented by soil boring "AG-9".

9. Site Groundwater.
 10. Contaminated sediments throughout the tidelands of the property, with the highest levels of contaminants in the vicinity of the marine railways. Some areas of contaminated uplands soils were also identified in areas that could present a source of contamination to sediments.
- M. Underground Heating Oil Tank. A 500 gallon underground heating oil tank next to the residence was removed in March, 2006. Results were presented to Ecology in a letter of May 3, 2006 and in Technical Memorandum No. 4, June 12, 2006. Samples were obtained from the bottom and sidewalls of the final excavation (after approximately 3 feet of overexcavation in an area where initial samples contained carcinogenic polyaromatic hydrocarbons (cPAH). Water seeping into the excavation was also sampled. No total petroleum hydrocarbons (TPH) or cPAH were detected above the MTCA, Method A groundwater or soil cleanup standards for unrestricted land use. Ecology issued an opinion letter through the Voluntary Cleanup Program on June 29, 2006 stating that the UST removal and cleanup met the substantive requirements of MTCA for characterizing and addressing this release. The UST excavation included soils represented by boring AG-5, which contained elevated cPAH (0.417 ppm total toxicity equivalent concentration, compared to the MTCA soil cleanup standard for unrestricted land use of 0.1 ppm).
- N. Above-Ground Heating Oil Tank. This 500 gallon tank was located at the southwest corner of the boat repair shop. It was removed some time between 1999 and 2005. In August of 2006, a boring was installed close to the former AST to a depth of 6.5 feet. Samples were obtained from the boring at 4-5 feet and 5-6 feet below ground surface, and from a post hole excavation directly beneath the former tank at 1 foot depth. Soils were tested for TPH and cPAH. All samples were below the MTCA, Method A, soil cleanup standards for unrestricted use. Results of AST samples are found in Technical Memorandum No. 7, October 2006. As the City did not request one, no Opinion Letter was provided on Technical Memorandum No. 7.
- O. "AG-8" area: Soil boring results for boring AG-8, presented in the Data Assessment and Conceptual Cleanup Plan (August, 2005), showed that the area underneath the covered carport behind the "Pandora's" building contained elevated TPH and lead in the surface

soils. The concentrations detected were 2,535 ppm TPH and 586 ppm lead, compared to the MTCA, Method A soil cleanup standard for unrestricted land use of 2000 ppm TPH and 250 ppm lead. The City excavated 2 feet of soil from an approximately 250 square foot area. Samples from the sidewalls and bottom of the excavation confirmed that the hydrocarbon and lead-containing soils were successfully removed. A summary of this removal action and confirmation sampling data are found in Technical Memorandum No. 4, June, 2006. Ecology issued an opinion letter through the Voluntary Cleanup Program on June 29, 2006 stating that AG-8 area remediation met the substantive requirements of MTCA for characterizing and addressing this release.

- P. Fruit tree and yard area. Ecology requested sampling in this area to identify arsenic or lead contamination from the potential historic use of arsenical pesticides, or from the areawide contamination resulting from aerial deposition from the former Asarco copper smelter in Tacoma. In consultation with Ecology, the City obtained a 5-point composite sample of the orchard area in March, 2006. The results were all below the MTCA, Method A, unrestricted soil cleanup standards. A summary of this sampling is found in Technical Memorandum No. 4, June, 2006. Ecology issued an opinion letter through the Voluntary Cleanup Program on June 29, 2006 stating the sampling and results met the substantive requirements of MTCA for characterizing and addressing this area.
- Q. Lower terrace area. During brush clearing in spring of 2006, the City discovered a discarded oil storage tank. The tank was pumped out, cleaned, and recycled. Ecology requested the City to dig test pits in this area to determine if other contaminants were visually present. In one test pit, three used oil filters were discovered. Three additional test pits were installed and samples obtained for volatile organics, PAH, TPH, and metals. All results were below the MTCA, Method A unrestricted soil cleanup standards. A summary of this sampling data is found in Technical Memorandum No. 4, June, 2006. In the Ecology June 29, 2006 opinion letter, Ecology stated that sampling in this area met the substantive requirements of MTCA for characterizing and addressing this potential release area.
- R. Crane Area. Ecology requested the city to evaluate the area where the former gravel loading crane was operated, on the terrace above the southernmost bulkhead. After the

City cleared the brush from this area, Ecology inspected the area for signs of oil staining or other evidence of contamination that may have resulted from the operation of the crane. After a site walk on March 20, 2006, Ecology informed the city that no further investigation would be required in this area.

- S. Area AHA-1. Results of samples taken at boring AHA-1 were presented in the Data Assessment and Conceptual Cleanup Plan report, August 2005. Samples at the 1.5 – 3 foot depth contained a total toxicity equivalent cPAH concentration of 0.384 ppm, compared to the MTCA, Method A soil cleanup level for unrestricted land use of 0.1 ppm. This area is just outside of the north side door to the boat shed. The CAP presents the details for cleanup and confirmational monitoring of this area.
- T. Area AG-9. An initial boring in this area, presented in the Data Assessment and conceptual Cleanup Plan (August 2005) found cPAH above the MTCA, Method A soil cleanup standard for unrestricted land use at a depth of 8-10 feet at this location (0.378 ppm total toxicity equivalent cPAH concentration, compared to the MTCA soil cleanup standard of 0.1 ppm). In August of 2006, Anchor Environmental installed a monitoring well at the same location of the AG-9 boring, and also installed two soil borings close to the well (approximately 20 feet to the north and to the south of the well). Logs from all three borings show that there is a layer of “charred wood, black, greasy texture” at 8-10 feet below ground surface. Carcinogenic PAH were detected above the MTCA, Method A soil standard for unrestricted land use (0.1 ppm) in this layer at all three borings (GP-2, 0.181 ppm; GP-3, 0.252 ppm; MW-3, 0.109 ppm). At boring GP-2, a sample obtained from beneath the layer of charred wood debris, at 13 feet below ground surface did not exceed the cPAH standard, and did not contain evidence of charred wood debris. Results of the August 2006 borings are found in Technical Memorandum No. 7, October, 2006. The CAP presents the selected cleanup action and confirmational testing requirements during construction.
- U. Site Groundwater. Three groundwater monitoring wells were installed at the site in August, 2006. The locations of the wells were chosen in consultation with Ecology staff. Locations included MW 1, near the shoreline and also close to the former underground heating oil tank; MW-2, close to and downgradient of the former above

ground heating oil tank at the southeast side of the boathouse; and MW-3, located in the central area of the site where a site boring installed in 2005 had contained elevated levels of cPAH in soils at 8 – 10 feet below ground surface. Details about well installation and rationale for well locations are found in Technical Memorandum No. 7, October 2006. Groundwater samples were obtained on 8/4/06, 2/20/07, and 5/24/07. Sample results are summarized in Technical Memorandum No. 8, March 2008. In MW-2, arsenic was present at levels from 5.9 to 6.8 micrograms per liter (dissolved), slightly above the MTCA, Method A criteria for arsenic in groundwater of 5 micrograms per liter (which is based on background concentrations of arsenic in groundwater). MW-1, closer to the harbor, contained low levels of detectable arsenic, below the MTCA, Method A criteria for groundwater, and also below the Marine Chronic Ambient Water Quality Criteria for protection of marine life of 36 micrograms per liter. In MW-3, where cPAH were identified in soils at the 8-10 foot depth, no cPAH were detected above the Ambient Surface Water Quality Criteria for protection of aquatic life (set forth under Section 304 of the Clean Water Act) or for protection of human health from consumption of organisms (set forth under the National Toxics Rule, 40 CFR 131).

- V. Sediments: Initial sediment sampling results were presented in the Data Assessment and Conceptual Cleanup Plan (August, 2005). Additional sediment samples were obtained in October of 2006 and in July of 2007, and are presented in Revised Technical Memorandum No. 2 (February 2007) and in Technical Memorandum No. 9 (August, 2007). The sediment sampling showed that the sediments in the vicinity of the marine haulout rails and the sediments to the south of the pier contained levels of mercury, copper, lead, phthalates, polychlorinated biphenyls (PCB), and PAHs above the State of Washington, Sediment Quality Standards (SQS) and Minimum Cleanup Level (MCUL) criteria. These standards are found in the Sediment Management Standards Regulation (SMS), Chapter 173-204 WAC. Although there is not a promulgated SQS or MCUL value for tributyltin (TBT), the sediment concentrations of this chemical were above the screening criteria used for the Puget Sound Dredged Material Management Program (DMMP). The CAP presents the selected cleanup actions for the site sediments.

A map of sediment sample locations and a table of results is included in the Cleanup Action Plan (Exhibit B). The primary chemicals of concern within the sediments are TBT, mercury, and PCBs.

Sample results show that the highest levels of contaminants are found within the marine railway area. Elevated mercury was detected in all seven samples within the marine railway, with the highest detected level of 3.17 ppm, compared to the SQS of 0.41 and the MCUL of 0.59 ppm. PCBs were detected in three samples within the marine railway area, ranging from 14.3 ppm to 99.4 ppb, compared to the SQS of 12 ppm and the MCUL of 65 ppm. (PCB results are expressed as organic carbon normalized concentrations for comparison to the the SQS). Other chemicals detected at elevated levels in the marine railway area included one sample with lead of 870 ppm, compared to the SQS of 450 ppm; and one sample containing 516 ppm copper, compared to the SQS of 390 ppm. A few exceedances of the SQS for the semivolatile organic compounds bis (2-ethylhexyl) phthalate, butylbenzylphthalate, dimethylphthalate, benzoflouranthenes and chrysene were detected in some of the samples within the marine railway, at some of the same sample locations with the higher exceedances for the other chemicals of concern. TBT was also detected at all samples within the marine railway, ranging from 140 parts per billion (ppb) to 3200 ppb, measured as the TBT ion in bulk sediment. Results from sediment core samples indicate the elevated contaminants are not found below approximately 1.5 feet deep.

Part of the marine railway area is above the high tide line. Because this area could affect the quality of the intertidal sediments through erosion, it was determined by the City and Ecology for this project that the upper railway area would be managed in conjunction with the sediments. Four soil borings in this area contained elevated levels of metals in the surface soils (highest concentrations: 7300 ppm lead, 1.2 ppm mercury, 2030 ppm copper, 2.1 ppm cadmium, 442 ppm zinc). One sample from this area contained cPAH in surface soils above the MTCA, Method A cleanup level for unrestricted soils. Soils in this area are slated to be removed as a part of the cleanup action described in the CAP.

There is an area on the embankment just south of the pier where it appeared that metallic debris and refuse from the boat shop had been deposited. This material was tested and

found to contain elevated copper, lead, mercury, and zinc (boring location AG-6). The sediment removal project will include removal of this debris and associated soils that could cause sediment contamination to the harbor through erosion.

In general, sediments south of the pier were significantly less contaminated than the sediments within the marine railway, with only three of ten samples containing mercury at levels between 0.47 ppb and 0.53 ppb (compared to the SQS of 0.41 ppb). Two samples within this area contained TBT (SG 5 with 0.13 ppb porewater, and AS-15 with 240 ppb bulk sediment). This area is slated to be capped with 12 to 18 inches of clean sand, overlain by 6 to 12 inches of clean gravel. Within this capping area, a subarea of about 600 square feet will be dredged prior to capping to remove a localized area represented by samples SG-4 and AS-4, where TBT concentrations of 2047 ppb in bulk sediment and 0.20 ppb porewater were detected.

Samples in the vicinity of the floating dock, waterward of the edge of the marine railway and the deeper water area of the site (below the mean lower low water tidal level), were contaminated only with TBT, with the highest levels found of 620 ppb bulk sediment and 0.19 ppb porewater. A discussion of the regulatory benchmarks for TBT is found below.

Tributyltin

The initial sampling for TBT on the site (samples AS-01 through AS-09) tested only for the bulk concentration of TBT in the sediment. Later samples (SG-01 through SG-15 and SG-17 through 20) were tested for bulk sediment concentrations as well as porewater concentrations. The bulk sediment TBT and porewater TBT values were compared using a linear regression analysis in an attempt to draw a correlation between the values in bulk sediment and porewater, for the purpose of determining a value in bulk sediment that would be representative of a protective level for porewater. Correlation was poor (R-squared of 0.27) for the 20 data points. Because of the poor correlation, no attempt was made to identify a bulk sediment value to represent a protective TBT level for this site.

Cleanup levels for sediments are defined in the CAP.

VI. ECOLOGY DETERMINATIONS

A. Because it owns the property where the release occurred, the City of Gig Harbor is an "owner or operator" as defined in RCW 70.105D.020(12) of a "facility" as defined in RCW 70.105D.020(4).

B. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70.105D.020(20) and RCW 70.105D.020(7), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP status letter to the City of Gig Harbor dated April 11, 2008, pursuant to RCW 70.105D.040, -.020(16) and WAC 173-340-500. By letter dated April 21, 2008, the City voluntarily waived its rights to notice and comment and accepted Ecology's determination that the City is a PLP under RCW 70.105D.040.

D. Based on sampling performed and independent remedial actions taken by the City and its consultants, and documented to Ecology in a series of Technical Memoranda and supporting materials, Ecology has determined that the investigations and independent remedial actions taken to address the following listed areas of the site are sufficient to meet the substantive requirements contained in the Model Toxics Control Act and its implementing regulations, Chapter 70.105DRCW and chapter 173-340 WAC.

1. Underground Heating Oil Storage Tank Area
2. Above Ground Heating Oil Storage Area
3. Soils under covered carport area of former "Pandora's" building (AG-8 area)
4. Fruit Tree and Yard Area
5. Lower Terrace Area
6. Former Gravel operation crane area.
7. Site Groundwater

E. Ecology has determined that additional remedial actions described in the CAP are necessary at the site to address remaining contamination on the site uplands and in the site sediments. To address these contaminants, a CAP was prepared and is included in this Order as Exhibit B. The CAP includes cleanup levels and remedial actions planned to address remaining upland contaminants in soils at the "AHA-1" and "AG-9" areas, and to address sediment contamination. Alternatives for sediment remediation were developed and presented to Ecology in Technical Memorandum No. 2, Evaluation of Sediment Cleanup Alternatives, January, 2006; Revised Technical Memorandum No. 2, Sediment Cleanup Study Report And Analysis Of Brownfields Cleanup Alternatives, February, 2007; and in Revised Dredging/Capping Alternative B, March 2007. Ecology has approved of the preferred cleanup alternative presented in the March, 2007 Revised Alternative B.

F. Pursuant to RCW 70.105D.030(1) and -.050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the City take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

A. Previous site investigations and remedial actions: Ecology hereby incorporates into this Order the previous remedial actions described in Section V. Reimbursement for specific project tasks under a grant agreement with Ecology is contingent upon the determination by Ecology's Toxic Cleanup Program that the work performed complies with applicable standards and is consistent with the remedial action required under this Order.

B. Implement Cleanup Action Plan. The City shall implement the cleanup actions as selected in the CAP (Exhibit B). The CAP in Exhibit B is an integral and enforceable part of this Order.

Schedule: The CAP construction elements shall be completed by March 30th, 2009, unless agreed to in writing prior.

C. Deliverables for Cleanup Activities: The City shall submit the documents shown in Table 1 below for Ecology review and approval, according to the specified schedules. The City will submit final documents to Ecology within 15 calendar days of receiving Ecology's written comments on draft documents.

Table 1 – Submittal Schedule

Submittal	Schedule
1) Water Quality Monitoring, Sediment, and Soils Sampling Plan	Draft – Thirty (30) calendar days prior to beginning any work at the Site. Ecology Written Comments – Fifteen (15) days prior to beginning any work at the Site Final – Prior to beginning any work at the Site
2) Institutional Control Plan ¹	Draft – Forty Five (45) calendar days from the effective date of the AO.

3) Long-Term Monitoring Plan ¹	Draft – Forty Five (45) calendar days from the effective date of the AO.
4) Project Completion Report	Within 60 days of completion of sediment cleanup activities.

¹ The CAP details institutional control and long-term monitoring plan elements to be detailed in the Institutional Control Plan and the Long-Term Monitoring Plan.

D. Contractor Submittals: Project plans and specifications require the contractor to submit various plans to the City within 10 days of notice to proceed. The City will provide the draft and final plans to Ecology within one working day of the City receiving the plans from the contractor. Ecology will review and consult with the City about the contents of these plans to ensure that construction practices are in compliance with MTCA, SMS, and project permits. The submittals include:

- Worker Health and Safety Plan
- Contractor Quality Control Plan
- Contractor Demolition Work Plan
- Contractor Dredging and Excavation Work Plan
- Cap Source Material Testing Results
- Contractor Offshore material Placement Work Plan
- Contractor Environmental Protection Plan

E. **Data Submittals:** Submit results of all environmental sampling data generated for the investigation and cleanup of this site to Ecology’s Environmental Information Management System, in accordance with Ecology’s Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and Subappendix E of the Sediment Sampling and Analysis Plan Appendix, Revised February 2008 (“Sediment Related EIM Data Entry Business Rules”).

Schedule: Within 60 days of the completion of the cleanup activities.

E. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this Section, Ecology may complete and issue the final deliverable.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notice

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that this Order is inadequate or improper in any respect.

B. Remedial Action Costs

The City shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order, beginning April 1, 2008. These costs do not include Ecology costs billed to and paid by the City under the Voluntary Cleanup Program prior to March 31, 2008. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). The City shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

Pursuant to RCW 70.105D.055, Ecology has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial actions.

C. Implementation of Remedial Action

If Ecology determines that the City has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the City, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of the City's failure to comply with its obligations under this Order, the City shall reimburse Ecology for the costs of doing such work in accordance with Section VIII. B. (Remedial Action Costs), provided that the City is not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, the City shall not perform any remedial actions at the Site outside those remedial actions required by this Order, unless Ecology concurs, in writing, with such additional remedial actions.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Joyce Mercuri
Toxics Cleanup Program
Southwest Regional
Department of Ecology
P. O. Box 47775
Olympia, WA 98504-7775
(360) 407-6260
Jmer461@ecy.wa.gov

The project coordinators for the City are:

Steve Misiurak
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170
misiuraks@cityofgigharbor.net

David Templeton
Anchor Environmental LLC
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Seattle , WA 98101
(206) 910-4279
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Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the City, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Decree.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least fourteen (14) calendar days prior to the change.

E. Performance

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

The City has notified Ecology that Anchor Environmental LLC is the engineer for implementation of the this Order and that Anchor will notify Ecology in writing of the identity of the selected contractor(s) for implementation of the cleanup action defined in the CAP.

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that the City either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the City's progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the City. The City shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the City where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the City unless an emergency prevents such notice. All persons who access the Site pursuant to this Section shall comply with any applicable Health and Safety Plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

G. Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, the City shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII. (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), Subappendix E of the Sediment Sampling and Analysis Plan Appendix, Revised February 2008 ("Sediment Related EIM Data Entry Business Rules"), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, the City shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the City pursuant to implementation of this Order. The City shall notify Ecology seven (7) days in advance of any

sample collection or work activity at the Site. Ecology shall, upon request, allow the City and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII. F. (Access), Ecology shall notify the City prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

H. Public Participation

The City Received a U.S. Environmental Protection Agency Brownfields grant for the site in 2007, and conducted a public participation process as a part of the requirements under that Grant. A fact sheet was issued and a public meeting was held on May 23, 2007. A Public Participation Plan has been developed for the activities under this Agreed Order by Ecology and is included in this Order as Exhibit D.

Ecology shall maintain the responsibility for public participation at the Site. However, the City shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify the City prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press

releases, fact sheets, meetings, and other outreach efforts by the City that do not receive prior Ecology approval, the City shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- a. Peninsula Branch Library,
4424 Point Fosdick Dr. NW
Gig Harbor, WA 98335, (253) 851-3793.
- b. Ecology's Southwest Regional Office
P. O. Box 47775
Olympia, WA 98506
(Street Address, 300 Desmond Drive, Lacey, WA 98503)
(360) 407-6365

I. Retention of Records

During the execution of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, the City shall preserve in electronic form all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, the City shall make all records available to Ecology and allow access for review within a reasonable time.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement under Section VIII. B. (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

- a. Upon receipt of Ecology's project coordinator's written decision or the itemized billing statement, the City has fourteen (14) days within which to notify

Ecology's project coordinator in writing of its objection to the decision or itemized statement.

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

c. The City may then request regional management review of the decision. This request shall be submitted in writing to the Southwest Region Toxics Cleanup Section Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

d. The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of the City's request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

K. Extension of Schedule

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension.

All extensions shall be requested in writing. The request shall specify:

- a. The deadline that is sought to be extended;
- b. The length of the extension sought;
- c. The reason(s) for the extension; and
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on the City to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

- a. Circumstances beyond the reasonable control and despite the due diligence of the City including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the City;
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII.M (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the City.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the City written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved *do not accept change, need to leave as-is* by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.L (Amendment of Order) when a schedule extension is granted.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

- a. Delays in the issuance of any necessary permits (or extensions) which were applied for in a timely manner;
- b. Other circumstances deemed exceptional or extraordinary by Ecology; or
- c. Endangerment as described in Section VIII. M. (Endangerment).

L. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII. N (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and the City. The City shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to this Order represents a substantial change, Ecology will provide public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII. J (Resolution of Disputes).

M. Endangerment

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct the City to cease such activities for such period of time as it deems necessary to abate the danger. The City shall immediately comply with such direction.

In the event the City determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, the City may cease such activities. The City shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction the City shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the City's cessation of activities, it may direct the City to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII. M (Endangerment), the City's obligations with respect to the ceased activities shall be suspended

until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII. K(Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

N. Reservation of Rights

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against the City to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against the City regarding remedial actions required by this Order, provided the City complies with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

The City reserves all of its rights against all parties that are not signatories to this Order.

O. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the City without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to the City's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the City shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30)

days prior to any transfer, the City shall notify Ecology of said transfer. Upon transfer of any interest, the City shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. Compliance with Applicable Laws

1. All actions carried out by the City pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. The City has obtained all federal, state and local permits required to conduct the cleanup action.

2. Pursuant to RCW 70.105D.090(1), the City is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, the City obtained all federal, state, and local permits required to conduct the cleanup action. All permits are available for review in the project files at Ecology's Southwest Regional Office records center and at the City of Gig Harbor, Engineering division. The specific permits obtained are:

- City of Gig Harbor Shoreline Management Substantial Development Permit
- Washington Department of Fish and Wildlife Hydraulic Project Approval
- U.S. Army Corps of Engineers Section 10, 404 dredge and fill permit
- State of Washington, Department of Ecology, Section 10, 401 Water Quality Certification.
- City of Gig Harbor Land Clearing and Grading Permit

The City has also conducted State Environmental Policy Act Review for the project and issued a Mitigated Determination of Nonsignificance August 20, 2007. The City has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the City determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or the City shall be responsible to contact the appropriate state and/or local agencies. If

Ecology so requires, the City shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the City and on how the City must meet those requirements. Ecology shall inform the City in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. the City shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

3. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for the State to administer any federal law, the exemption shall not apply and the City shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

Q. Land Use Restrictions

Under Section VII of this Agreed Order the City shall submit an institutional controls plan to Ecology. The institutional controls plan that shall include land use restrictions, maintenance, and notification provisions to provide for perpetual protection all areas where contaminants are left in place beneath soil or sediment caps, in accordance with WAC 173-340-440(8)(b).

R. Financial Assurances

Pursuant to WAC 173-340-440(11), the City shall maintain sufficient and adequate financial assurance mechanisms to cover all costs associated with the operation and maintenance of the remedial action at the Site, including institutional controls, compliance monitoring, and corrective measures.

S. Periodic Review

As remedial action, continues at the Site, the Parties agree to review the progress of remedial action at the Site, and to review the data accumulated as a result of monitoring the Site as often as is necessary and appropriate under the circumstances. At least every five (5) years after the initiation of cleanup action at the Site the Parties shall meet to discuss the status of the Site and the need, if any, for further remedial action at the Site. At least ninety (90) days prior to each periodic review, the City shall submit a report to Ecology that documents whether human health and the environment are being protected based on the factors set forth in WAC 173-340-420(4). The first periodic review for this site shall be conducted in June, 2011. Ecology reserves the right to require further remedial action at the Site under appropriate circumstances.

T. Indemnification

The City agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of the City, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the City shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

Should a court of competent jurisdiction determine that this Agreed Order is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the State of Washington and The City of Gig Harbor, its officers, employees and volunteers, the City's liability hereunder shall be only to the extent of the City's negligence. The provisions of this section shall survive the expiration or termination of this Agreed Order.

IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon the City's receipt of written notification from Ecology that the City has completed the remedial activity required by this Order, as amended by any modifications, and that the City has complied with all other provisions of this Agreed Order.

X. ENFORCEMENT

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
- B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
- C. In the event the City refuses, without sufficient cause, to comply with any term of this Order, the City will be liable for:
 - a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and
 - b. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.
- D. This Order is not appealable to the Washington Pollution Control Hearings Board.

This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: _____

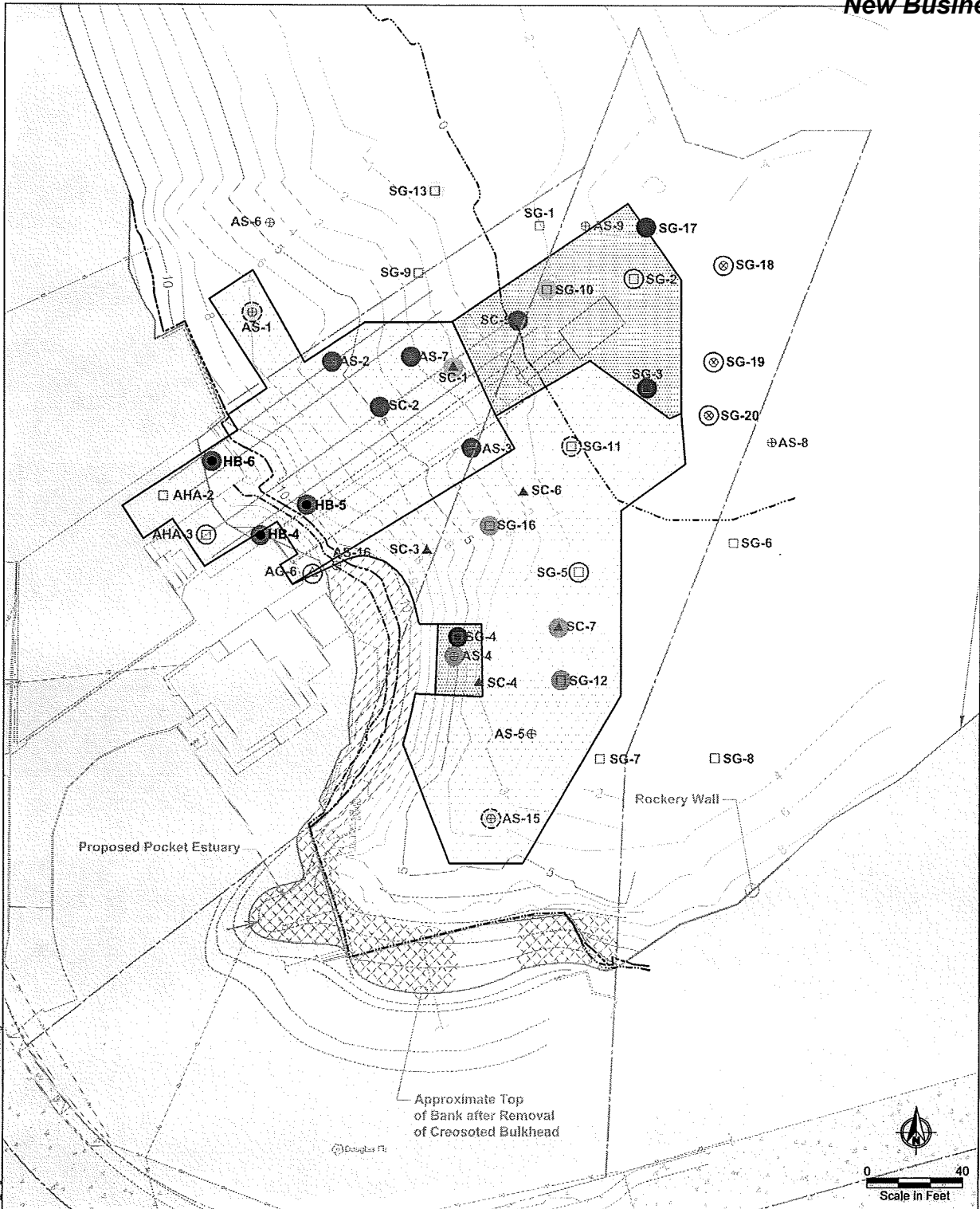
CITY OF GIG HARBOR

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY

Charles L. Hunter
Mayor, City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170

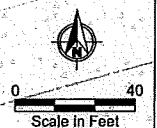
Rebecca Lawson
Section Manager, Toxics Cleanup Program
Department of Ecology
PO BOX 47775
Olympia, WA 98504-7775
(360) 407-6260

Exhibit A – Site Map



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- | | | | |
|---|--|--|--|
| <ul style="list-style-type: none"> — Outfall — Parcel Boundary — Contour In Feet (Approximate) ▨ Proposed Habitat Plantings ▨ Existing Salt Marsh Vegetation ● HB-1 Existing Soil/Sediment Sample Location and Number — Bank Contours after Bulkhead Removal ○ Prescriptive Removal, Grading, and Capping | <p>----- Historical Footprint of Pier</p> <p><u>Anchor Sample Location and Number</u></p> <p>2005</p> <p>AS-1 ⊕ Surface Sediment</p> <p>AG-1 △ Geoprobe</p> <p>AHA-1 □ Hand Auger</p> <p>2006</p> <p>SC-1 ▲ Subsurface Sediment Core</p> <p>SG-7 □ Surface Sediment</p> <p>2007</p> <p>SG-17 ⊗ Surface Sample</p> | <ul style="list-style-type: none"> ● Exceeds Sediments Cleanup Screening Levels (CSL) ● Exceeds Sediment Quality Standards (SQS) ● Additional Points with Porewater TBT >0.15 µg/L ● Additional Points with Bulk TBT >400 µg/kg ● Additional Points with TOCN TBT >6 ppm ○ Additional Points with Porewater TBT >0.05 ○ Additional Points with Bulk TBT >100 µg/kg | <ul style="list-style-type: none"> ▨ Dredge and Backfill to Original Grade ▨ Dredge without Backfill to Original Grade ▨ Sediment Isolation Cap — Mean High Water Line — Mean Higher High Water Line — Mean Lower Low Water Line |
|---|--|--|--|



Notes:
 1. Base map prepared from survey provided by David Evans and Associates dated May 2006.
 2. Horizontal Datum: SP NAD 83 WA South.
 3. Vertical Datum: Mean Lower Low Water (MLLW).

Exhibit B - CAP

DRAFT

EXHIBIT B

CLEANUP ACTION PLAN

EDDON BOATYARD SITE

Prepared for

City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335

Prepared by

Anchor Environmental, L.L.C.
1423 Third Avenue, Suite 300
Seattle, Washington 98101

Issued by

Washington State Department of Ecology
Toxics Cleanup Program
Southwest Regional Office, Olympia

May 2008

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Declarative Statement

Consistent with the Model Toxics Control Act, Chapter 70.105D Revised Code of Washington, as implemented by the Model Toxics Control Act Cleanup Regulation, Chapter 173-340 Washington Administrative Code, it is determined that the selected cleanup actions are protective of human health and the environment, attain federal and state requirements that are applicable or relevant and appropriate, comply with cleanup standards, provide for compliance monitoring, use permanent solutions to the maximum extent practicable, provide for a reasonable restoration timeframe, and consider public concerns raised during public comment.

Joyce Mercuri	Date
Site Manager	
Toxics Cleanup Program	
Southwest Regional Office	



1 INTRODUCTION

This *Cleanup Action Plan* (CAP) is Exhibit B to the Agreed Order (AO) and describes the cleanup action proposed by the City of Gig Harbor (City) for the cleanup of upland and sediment contamination at the Eddon Boatyard Site (Site; Figure 1) in Gig Harbor, Washington. The City of Gig Harbor submitted an application under the Washington State Department of Ecology (Ecology) Voluntary Cleanup Program (VCP) in late June 2005. Since then, the City has completed a number of cleanup and investigation activities in both the upland and sediment portions of the Site. These activities have been documented in a series of Technical Memoranda and associated Opinion Letters to assess whether they meet the specific substantive requirements of the Model Toxics Control Act (MTCA) and its implementing regulations (Chapter 70.105D Revised Code of Washington [RCW] and Chapter 173-340 Washington Administrative Code [WAC]). In 2006, the City received a brownfields grant from the U.S. Environmental Protection Agency to assist with cleanup of the Site. In addition, a portion of the costs of removal of the creosote-treated piling will be offset through support from Washington Department of Natural Resources (DNR) Creosote Removal Program.

In early 2007, the City prepared a Sediment Cleanup Study Report and Analysis of Brownfield Cleanup Alternatives (ABCAs) that presented an evaluation of Site cleanup alternatives for sediments and associated upland areas of and adjacent to the Site. Based on this document, the City and Ecology developed a recommended cleanup alternative that was the basis for an application for the required permits (Figure 2). At that time, the City initiated design activities. In November 2007, after completing design activities and preparing contract plans and specifications, the City requested sealed bid proposals for construction of cleanup activities. However, due to delays in getting the final permits, the City decided to delay the project and the bid opening. In March 2008, all necessary permits had been received, and the City issued a new invitation to bidders on March 29, 2008. Contractor selection will be completed in the next few months and in-water work will commence in mid-June 2008.

The City and Ecology have decided to enter into an AO for the Site. This CAP was developed using information developed under the VCP process discussed above and has been prepared to satisfy the requirements of the MTCA, RCW 70.105D, administered by Ecology under the MTCA Cleanup Regulation, WAC 173-340.

1.1 Site Description

In 2004, the residents of the City approved the \$3.5 million Proposition No. 1 Land Acquisition and Development General Obligation Bond (Proposition No. 1) to preserve a portion of the historic waterfront known as the Eddon Boathouse property (Figure 1). After completing a review of environmental conditions, the City purchased the Site in March 2005.

The Site consists of Pierce County tax parcels 022105-3074 and 02215-3050. It is about 3 acres in size, with roughly two-thirds of the land consisting of tidelands and subtidal lands. The Site is defined as the area where contaminants have come to be located from a release from boatyard activities. The Site includes the Eddon Boat Park property and portions of adjacent properties where contaminants originating from the boatyard activities are found.

Historically, the Site was a boatyard where boats were built from the 1940s until boatyard operations were terminated in 2003. The public recognizes that the Site has unique attributes, such as panoramic views of the harbor and proximity to eating establishments, recreation, and other amenities, which make this an important park acquisition that preserves the historic character of Gig Harbor. The property has not been used as a boatyard since 2005, and there are no plans for the future operation of a boatyard. Park development activities include any necessary environmental cleanup and remediation of the Site, while preserving the boathouse and related structures. The conceptual park design is presented in Figure 3.

1.2 Purpose and Scope

The main state law that governs the cleanup of contaminated sites is MTCA. MTCA regulations define the process for the investigation and cleanup of contaminated sites. When contaminated sediments are involved, the cleanup standards and other procedures are also regulated by the Sediment Management Standards (SMS), WAC 173-204. MTCA regulations specify criteria for the evaluation and conduct of a cleanup action. SMS regulations dictate the standards for sediment cleanup. Under both MTCA and SMS regulations, the cleanup must protect human health and the environment, meet state environmental standards and standards in other laws that apply, and provide for monitoring to confirm compliance with Site cleanup standards.

Though the objective of the VCP process has been to satisfy the requirements of the MTCA, RCW 70.105D, administered by Ecology under the MTCA Cleanup Regulation, WAC 173-340, the purpose of this CAP is to describe Ecology's proposed cleanup action for the Site. Consistent with the requirements of WAC 173-340-380, this document provides the following information:

- Summary of project background and current environmental conditions (Section 2)
- Cleanup requirements applicable to the Site, including cleanup standards and other federal, state, and local laws applicable to the cleanup action (Section 3)
- Summary description of the remedial alternatives evaluated in Technical Memorandum No. 2 (Section 4)
- Rationale for selection of the proposed cleanup alternative (Section 4)
- A description of the cleanup action, consistent with MTCA requirements; Section 5 includes a description of the types, levels, and amounts of hazardous substances that will remain on site as part of the cleanup and the measures that will be used to prevent migration and contact with those substances; also described are compliance monitoring and contingency actions, as well as institutional controls (Section 5)
- Description of the schedule for implementation of the cleanup action (Section 6)

The AO will be signed by the City and by Ecology. The City has completed permitting and design activities and has solicited bids to complete the construction. Construction is expected to begin in early summer 2008 and will take between 2 and 3 months to complete. Long-term monitoring activities will be initiated following completion of construction activities.

2 SITE BACKGROUND

This section summarizes background information relevant to the cleanup of the Site. The City has completed a number of cleanup and investigation activities in both the upland and sediment portions of the Site, much in response to Opinion Letters provided by Ecology that assess whether specific substantive requirements of the MTCA and its implementing regulations (RCW 70.105D and WAC 173-340) are likely going to be met. These activities have been documented in a series of Technical Memoranda (see Exhibit C to the AO).

These Technical Memoranda include:

- Technical Memorandum No. 1 – Confirmation Sampling for UST Removal and Isolated Soil Impacts. September 28, 2005.
- Technical Memorandum No. 2. Revised Technical Memorandum No. 2 – Sediment Cleanup Study Report and Analysis of Brownfields Cleanup Alternatives. February 2007.
- Technical Memorandum – Revised Dredging and Capping Alternative B. March 29, 2007.
- Technical Memorandum No. 3 – Work Plan for Proposed Investigation Activities. June 12, 2006.
- Technical Memorandum No. 4 – Completed Investigation Activities. June 12, 2006.
- Technical Memorandum No. 5 – Sediment Sampling and Analysis Plan – Additional Activities. July 18, 2006.
- Technical Memorandum No. 6 – Results of Additional Sediment Sampling. January 26, 2007.
- Technical Memorandum No. 7 – Upland Data Results. October 23, 2006.
- Technical Memorandum No. 8 – Groundwater Testing Results. February 26, 2008.
- Technical Memorandum No. 9 – Additional Surface Sediment Sampling Testing Results. August 15, 2007.
- Technical Memorandum No 10 – Terrestrial Ecosystem Evaluation. March 17, 2008.

Other documents referenced in the above Technical Memoranda include:

- Phase I Environmental Site Assessment (Saltbush 1999)
- Phase II Environmental Site Assessment (Krazan 2003)
- Sampling and Analysis Plan (Anchor 2004)

- Data Assessment and Conceptual Cleanup Plan (Anchor 2005)

2.1 Site History

The Site is located along the Gig Harbor shoreline (Figure 1) and consists of two tax parcels with both upland and aquatic lands. The area is a working waterfront, and the Site is adjacent to a number of marinas. The Site is described in detail in Phase I and Phase II Environmental Site Assessments conducted by Saltbush Environmental Services, Inc. (1999) and Krazan and Associates, Inc. (2003), respectively.

Four buildings historically existed on the Site, including the boat repair facility (boathouse and associated structures), a single family residence (former Hoppen house), a former antique shop (Pandora's Building), and a bird feed/gift shop (Wild Birds Unlimited Building). The boat repair facility has occupied the Site since the 1940s and was closed after the City purchased the property.

Today, the Site slopes from Harborview Drive down to the water and currently only includes two buildings. The shoreline consists of both relatively natural embankments and a creosote wood bulkhead. The two sets of haul-out rails, a pier, and a floating dock still remain.

The building, formerly in the middle of the Site and referred to in the project documents as Pandora's, was a concrete block structure with a covered carport that was present on the Site from the 1950s until it was demolished in early 2006. It was previously an antique shop and a City maintenance shop. The building formerly on the southernmost part of the Site, referred to in the project documents as "Wild Birds Unlimited" is believed to have originally been part of a gravel loading operation and was most recently used as a retail shop. There were several concrete retaining walls behind this building that are believed to have been associated with the gravel loading operation. There were also remnants of gravel loading crane assembly adjacent to a bulkhead at the south part of the Site.

The Pandora's building, the Wild Birds Unlimited building, and the concrete retaining walls were demolished in early 2006 (along with brush clearing activities). The single family residence is not currently occupied.

The boat repair facility is composed of historic structures, all of which will remain in place, though the pier and marine railways will be demolished as part of the sediment cleanup (permits have been received for these activities). The pier and marine railway(s) will be reconstructed in the future, though the exact design and timing is undetermined. The future status of the former Hoppen house is still being evaluated.

2.2 Current Site Conditions

Both upland and sediment areas have been subject to multiple sampling and analysis investigations and are well characterized. Between 2005 and 2008, the City submitted several technical memoranda and other documents to Ecology summarizing sampling activities and interim remedial actions that have been taken at the Site (refer to Exhibit C of the AO). Nine areas of concern were identified from the Site investigations:

1. 500 gallon underground heating oil storage tank near the residence
2. 500 gallon aboveground heating oil storage tank near the boat shop
3. Elevated heavy oil petroleum hydrocarbons and elevated lead in surface soils underneath covered carport of former maintenance shop (Pandora's) building; this area was represented by soil boring AG-8
4. Fruit tree and yard area; Ecology expressed concern about potential for arsenic or lead contamination from the potential historic use of arsenical pesticides, or from the area-wide contamination resulting from aerial deposition from the former Asarco copper smelter in Tacoma
5. An area below the former Pandora's building where a discarded oil storage tank had been found during brush clearing, and later test pits unearthed three used oil filters; this area was known as the "Lower Terrace" area
6. Potential for oil contamination from the former gravel operation's crane area adjacent to the south bulkhead
7. An area on the adjacent property to the north, just outside of the north side door to the boat shed containing elevated carcinogenic polyaromatic hydrocarbons (cPAHs); this area was represented by soil boring AHA-1
8. An area at 8 to 10 feet below ground surface on the central/east part of the Site containing elevated cPAH; this area was represented by soil boring AG-9
9. Contaminated sediments throughout the tidelands of the property, with the highest levels of contaminants in the vicinity of the marine railways; some areas of

contaminated uplands soils were also identified in areas that could present a source of contamination to sediments

The remainder of this section provides additional detail for each of these areas.

2.2.1 Underground Heating Oil Storage Tank

A 500 gallon underground heating oil storage tank (UST) next to the residence was removed in March 2006. Results were presented to Ecology in a letter of May 3, 2006, and in Technical Memorandum No. 4, June 12, 2006. Samples were obtained from the bottom and sidewalls of the final excavation (after approximately 3 feet of over excavation when initial samples contained hydrocarbons). Water seeping into the excavation was also sampled. No petroleum or polycyclic aromatic hydrocarbons (PAHs) were detected above the MTCA, Method A groundwater cleanup levels, or soil cleanup standards for unrestricted land use. Ecology issued an Opinion Letter through the VCP on June 29, 2006, stating that the UST removal and cleanup met the substantive requirements of MTCA for characterizing and addressing this release. The UST excavation included soils represented by boring AG-5, which contained elevated cPAH (0.417 part per million [ppm] total toxicity equivalent concentration, compared to the MTCA soil cleanup standard of 0.1 ppm).

2.2.2 Aboveground Heating Oil Storage Tank

This 500 gallon aboveground storage tank (AST) was located at the southwest corner of the boat repair shop. It was removed sometime between 1999 and 2005. In August of 2006, a boring was installed close to the former AST to a depth of 6.5 feet. Samples were obtained from the boring at 4 to 5 feet and 5 to 6 feet below ground surface, and from a post-hole excavation directly beneath the former tank at 1 foot depth. Soils were tested for petroleum hydrocarbons and PAHs. All samples were below the MTCA, Method A groundwater cleanup levels, or soil cleanup standards for unrestricted land use. Results of AST samples are found in Technical Memorandum No. 7. As the City did not request one, no Opinion Letter was provided on Technical Memorandum No. 7.

2.2.3 AG-8 Area

Soil boring results for boring AG-8, presented in the Data Assessment and Conceptual Cleanup Plan (Anchor 2005), showed that the area underneath the covered carport behind the Pandora's building contained elevated total petroleum hydrocarbon (TPH) and lead in the surface soils (2,535 ppm TPH and 586 ppm lead). The City excavated approximately 2 feet of soil from an approximately 250 square foot area. Samples from the sidewalls and bottom of the excavation confirmed that the hydrocarbon- and lead-containing soils were successfully removed. Ecology issued an Opinion Letter through the VCP on June 29, 2006, stating that AG-8 area remediation met the substantive requirements of MTCA for characterizing and addressing this release.

2.2.4 Fruit Tree and Yard Area

Ecology requested sampling in this area to identify arsenic or lead contamination from the potential historic use of arsenical pesticides, or from the area-wide contamination resulting from aerial deposition from the former Asarco copper smelter in Tacoma. In consultation with Ecology, the City obtained a 5-point composite sample of the orchard area in March 2006. The results were all below the MTCA, Method A groundwater cleanup levels, and soil cleanup standards for unrestricted land use. Ecology issued an Opinion Letter through the VCP on June 29, 2006, stating the sampling and results met the substantive requirements of MTCA for characterizing and addressing this area.

2.2.5 Lower Terrace Area

During brush clearing in the spring of 2006, the City discovered a discarded oil storage tank. The tank was pumped out, cleaned, and recycled. Ecology requested the City to dig test pits in this area to determine if other contaminants were visually present. In one test pit, three used oil filters were discovered. Three additional test pits were installed and samples obtained for volatile organics, PAH, TPH, and metals. All results were below the MTCA, Method A groundwater cleanup levels, and soil cleanup standards for unrestricted land use. In the Ecology June 29, 2006 Opinion Letter, Ecology stated that sampling in this area met the substantive requirements of MTCA for characterizing and addressing this potential release area.

2.2.6 Crane Area

Ecology requested the City to evaluate the area where the former gravel loading crane was operated, on the terrace above the southernmost bulkhead. After the City cleared the brush from this area, Ecology inspected the area for signs of oil staining or other evidence of contamination that may have resulted from the operation of the crane. After a Site walk on March 20, 2006, Ecology informed the City that no further investigation would be required in this area.

2.2.7 Area AHA-1

Results of samples taken at boring AHA-1 were presented in the Data Assessment and Conceptual Cleanup Plan (Anchor 2005). Samples at the 1.5- to 3-foot depth contained a total toxicity equivalent cPAH concentration of 0.384 ppm, compared to the MTCA, Method A groundwater cleanup levels, and soil cleanup standards for unrestricted land use of 0.1 ppm. This area is just outside of the north side door to the boat shed. This area is slated to be excavated according to the cleanup action plan that is the subject of this AO.

2.2.8 Area AG-9

An initial boring in this area, presented in the Data Assessment and Conceptual Cleanup Plan (Anchor 2005) found cPAH above the MTCA, Method A groundwater cleanup levels, and soil cleanup standards for unrestricted land use at a depth of 8 to 10 feet at this location (0.378 ppm, based on the Toxicity Equivalent Methodology, compared to the MTCA soil cleanup standard of 0.1 ppm). In August of 2006, Anchor Environmental, L.L.C. (Anchor), installed a monitoring well at the same location of the AG-9 boring and also installed two soil borings close to the well (approximately 20 feet to the north and to the south of the well). Logs from all three borings show that there is a layer of "charred wood, black, greasy texture" at 8 to 10 feet below ground surface. Carcinogenic PAHs were detected above the MTCA, Method A groundwater cleanup levels, and soil cleanup standards for unrestricted land use (0.1 ppm) in this layer at all three borings (GP-2, 0.181 ppm; GP-3, 0.252 ppm; and MW-3, 0.109 ppm). At boring GP-2, a sample obtained from beneath the layer of charred wood debris, at 13 feet below ground surface, did not exceed the cPAH standard and did not contain evidence of

charred wood debris. Results of the August 2006 borings are found in Technical Memorandum No. 7. Groundwater conditions are discussed in the following section.

This approximately 2-foot-thick-fill layer with elevated PAH concentrations is about 8 to 10 feet below the existing grade. Though this area has been the subject to a number of investigations, the lateral extent of this fill layer is not fully defined. As part of the removal of the creosoted wooden bulkhead, as required by the Washington Department of Fish and Wildlife Hydraulic Project Approval (HPA), the bank will be reconfigured. Based on the results of the disproportionality evaluation, portions of this soil layer will be removed as discussed further in Section 4.

2.2.9 Site Groundwater

Three groundwater monitoring wells were installed at the Site in August 2006. The locations of the wells were chosen in consultation with Ecology staff. Locations included MW-1, near the shoreline and also close to the former UST; MW-2, close to and downgradient of the former AST at the southeast side of the boathouse; and MW-3, located in the central area of the Site where a Site boring installed in 2005 had contained elevated levels of cPAH in soils at 8 to 10 feet below ground surface. Details about well installation and rationale for well locations are found in Technical Memorandum No. 7.

Groundwater samples were obtained on August 4, 2006; February 20, 2007; and May 24, 2007. Sample results are summarized in Technical Memorandum No. 8. In MW-2, arsenic was present at levels from 5.9 to 6.8 micrograms per liter ($\mu\text{g/L}$) (dissolved), slightly above the MTCA, Method A criteria for arsenic in groundwater of 5 micrograms per liter (which is based on background concentrations of arsenic in groundwater). MW-1, closer to the harbor, contained low levels of detectable arsenic, below the MTCA, Method A criteria for groundwater, and also below the Marine Chronic Ambient Water Quality Criteria for protection of marine life of 36 micrograms per liter. In MW-3, where cPAH were identified in soils at the 8 to 10 foot depth, no PAHs were detected above the Ambient Surface Water Quality Criteria for protection of aquatic life (set forth under Section 304 of the Clean Water Act) or for protection of human health from consumption of organisms (set forth under the National Toxics Rule, 40 Code of Federal Regulations [CFR] 131).

Terrestrial Ecological Evaluation

A Terrestrial Ecological Evaluation (TEE) was prepared for the project in March 2008 (Technical Memorandum No. 10). The TEE concluded that a simplified TEE was appropriate for this Site based on the criteria in WAC 173-340-7490 through 7493. The simplified TEE compared Site data to the screening levels provided in Table 749-2 of the MTCA. One sample in surface soil exceeded the screening level for copper, and one surface sample exceeded the screening level for chromium. Ecology concurs with the conclusions of the simplified TEE report that these individual exceedances do not represent overall Site conditions and that Site grading that occurred in preparation for park development has very likely diminished the concentrations at the two individual locations significantly.

2.2.11 Sediments

Current surface and subsurface sediment chemistry concentrations have been well characterized and have elevated concentrations of metals, organics, and tributyltin (TBT; Figure 2). These investigations are presented in the following Technical Memoranda:

- Technical Memorandum No. 2. Revised Technical Memorandum No. 2 – Sediment Cleanup Study Report and Analysis of Brownfields Cleanup Alternatives. February 2007.
- Technical Memorandum No. 3 – Work Plan for Proposed Investigation Activities. June 12, 2006.
- Technical Memorandum No. 5 – Sediment Sampling and Analysis Plan – Additional Activities. July 18, 2006.
- Technical Memorandum No. 6 – Results of Additional Sediment Sampling. January 26, 2007.
- Technical Memorandum No. 9 – Additional Surface Sediment Sampling Testing Results. August 15, 2007.

Initial sediment sampling presented in the Data Assessment and Conceptual Cleanup Plan (Anchor 2005) showed that the sediments in the vicinity of the marine haul-out rails and the sediments to the south of the pier contained levels of mercury, copper, lead, phthalates, polychlorinated biphenyls (PCBs), and PAHs above the State of Washington, Sediment Quality Standards (SQS) and Minimum Cleanup Level (MCUL) criteria.

These standards are found in the SMS, WAC 173-204. Although there is not a promulgated SQS or MCUL value for TBT, the sediment concentrations of this chemical were above the screening criteria used for the Puget Sound Dredged Material Management Program (DMMP). Additional sediment samples were obtained in October of 2006 and in July of 2007.

Sediment sample results are found in the Revised Technical Memorandum No. 2 and in Technical Memorandum No. 9. The primary chemicals of concern (COCs) within the sediments are TBT, mercury, and PCBs (Figure 2). Sample results show that the highest levels of contaminants are found within the marine railway area. Elevated mercury was detected in all seven samples within the marine railway, with the highest detected level of 3.17 ppm, compared to the SQS of 0.41 ppm and the MCUL of 0.59 ppm. PCBs were detected in three samples within the marine railway area, ranging from 14.3 ppm to 99.4 parts per billion (ppb), compared to the SQS of 12 ppm and the MCUL of 65 ppm. (PCB results are expressed as organic carbon normalized concentrations for comparison to the SQS.) Other chemicals detected at elevated levels in the marine railway area included one sample with lead of 870 ppm, compared to the SQS of 450 ppm; and one sample containing 516 ppm copper, compared to the SQS of 390 ppm. A few exceedances of the SQS for the semivolatile organic compounds bis (2-ethylhexyl) phthalate, butylbenzylphthalate, dimethylphthalate, benzoflouranthenes, and chrysene were detected in some of the samples within the marine railway, at some of the same sample locations with the higher exceedances for the other COCs. TBT was also detected at all samples within the marine railway, ranging from 140 to 3,200 ppb, measured as the TBT ion in bulk sediment. Results from sediment core samples indicate the elevated contaminants are not found below approximately 1.5 feet deep.

Part of the marine railway area is above the high tide line. Because this area could affect the quality of the intertidal sediments through erosion, it was determined by the City and Ecology for this project that the upper railway area would be managed in conjunction with the sediments. Four soil borings in this area contained elevated levels of metals in the surface soils (highest concentrations included 7,300 ppm lead, 1.2 ppm mercury, 2,030 ppm copper, 2.1 ppm cadmium, and 442 ppm zinc). One sample from this area contained cPAH in surface soils above the MTCA, Method A groundwater

cleanup levels, and soil cleanup standards for unrestricted land use. Soils in this area are slated to be removed as a part of the sediment remediation project that is the subject of this AO.

There is an area on the embankment just south of the pier where it appeared that metallic debris and refuse from the boat shop had been deposited. This material was tested and found to contain elevated copper, lead, mercury, and zinc. The sediment removal project will include removal of this debris and associated soils that could cause sediment contamination to the harbor through erosion.

In general, sediments south of the pier were significantly less contaminated than the sediments within the marine railway, with only three of 10 samples containing mercury at levels between 0.47 ppb and 0.53 ppb (compared to the SQS of 0.41 ppb). Two samples within this area contained TBT (Surface Grab 5 with 0.13 ppb porewater, and AS-15 with 240 ppb bulk sediment). This area is slated to be capped with 12 to 18 inches of clean sand, overlain by 6 to 12 inches of clean gravel. Within this capping area, a subarea of about 600 square feet will be dredged prior to capping to remove a localized area represented by samples SG-4 and AS-4, where TBT concentrations of 2,047 ppb in bulk sediment and 0.20 ppb porewater were detected. Samples in the vicinity of the floating dock, waterward of the edge of the marine railway and the deeper water area of the Site (below the mean lower low water tidal level), were contaminated only with TBT, with the highest levels found of 620 ppb bulk sediment and 0.19 ppb porewater.

These data have been evaluated against the Washington State SMS (WAC 173-204) chemical criteria (and various TBT benchmarks) to identify the area and volume of sediments that exceed various criteria. Figure 2 presents a summary of sediment quality against SMS chemical criteria and various benchmarks for TBT. With the discontinuation of historical activities that have resulted in elevated sediment chemical concentrations, it is important to note that source control has been demonstrated.

3 CLEANUP REQUIREMENTS

This section describes the cleanup requirements that must be met by the cleanup of the Site. Consistent with MTCA and SMS requirements, this section addresses three types of requirements:

- **Cleanup Levels** – A “cleanup level” is the concentration of a hazardous substance in soil, water, air, or sediment that is determined to be protective of human health and the environment under specified exposure conditions (WAC 173-340-200)
- **Point of Compliance** – The “Point of Compliance” defines the point or points on a site where cleanup levels must be met (WAC 173-340-200)
- **Applicable Local, State, and Federal Laws** – In addition to the requirements of the SMS and the MTCA, other laws apply to the cleanup; Section 3.3 discusses applicable laws and how they will be addressed during implementation of the cleanup action

3.1 Cleanup Levels

Cleanup standards applicable to sediments, soils, and groundwater are described below.

3.1.1 Sediment Cleanup Levels

The SMS, WAC 173-204, govern the identification and cleanup of contaminated sediment sites and establish two sets of numerical chemical criteria against which surface sediment concentrations are evaluated. The more conservative SQS provide a regulatory goal by identifying surface sediments that have no adverse effects on human health or biological resources. The MCUL (equivalent to the Cleanup Screening Level), represents the regulatory level that defines minor adverse effects. The SQS is Ecology’s preferred cleanup goal, although Ecology may approve an alternate cleanup level within the range of the SQS and the MCUL if justified by a weighing of environmental benefits, technical feasibility, and cost. Chemical concentrations or confirmatory biological testing data may define compliance with the SQS and MCUL criteria.

The primary cleanup levels (long-term goal) for the Site sediments are defined as the SQS. There are no promulgated SMS criteria for TBT (ion), and there is no well-established relationship between the concentration of TBT (ion) in sediment and porewater to the potential for adverse effects to aquatic resources. Still, for the purposes of evaluating the protectiveness of various Site cleanup alternatives (recognizing that

Gig Harbor is a working harbor and the Site is adjacent to a number of marinas), there are a number of applicable benchmarks, or screening criteria, against which TBT concentrations in sediment and porewater can be evaluated. These are discussed in detail in Revised Technical Memorandum No. 2.. Ecology and other sediment management agencies consider an interstitial porewater value of 0.05 ppb to be equivalent to the “no adverse effects level” goal of the SQS (WAC 173-204-320). This approach is based on a 1996 Technical Information Memorandum that was put forth through the Sediment Management Annual Review Meeting review process in 1996 (Michelsen, et al. 1996). This Technical Information Memorandum also provided a screening guidance criterion for deep water disposal of sediments at dredged sediments disposal sites of 0.15 µg/l. The 0.15 µg/l concentration is considered by Ecology to be a “minor adverse effects” level equivalent to the MCUL. Ecology reviewed the levels of TBT at the Site in relationship to the various benchmarks presented in the Cleanup Study Report, and Revised Dredging and Capping Alternative B. Ecology has determined that the 0.15 µg/L porewater is an acceptable cleanup standard for TBT at this Site. Sediment cleanup levels are summarized in Table 1.

3.1.2 Soil and Groundwater Cleanup Levels

Soil and groundwater cleanup levels consider reasonable maximum exposure expected under both current and future Site conditions. For the Site, soil cleanup levels have been set at the MTCA, Method A cleanup levels for unrestricted land use. Based on the information generated from the Site soils investigations, TPH, cPAH, and lead have been identified as the COCs at this Site. Cleanup standards for these contaminants are also presented in Table 1. Site investigations showed that groundwater is not a pathway of concern on this Site for human health risk or for the potential to affect the marine waters. Therefore, no groundwater cleanup standards have been set.

3.2 Point of Compliance

This section summarizes point of compliance for upland and sediment areas.

3.2.1 Soil

The soil cleanup standard consists of a concentration (cleanup level) and the point of compliance at any specified soil location. The point of compliance for soils is for the

soils throughout the Site. Remedial investigations indicate that only two remaining areas are above the soil cleanup standard. These areas will be remediated and confirmation sampling at the edges of the excavations will be completed to confirm that the contaminants have been removed or isolated (see Section 5) and that cleanup standards are met.

3.2.2 Sediments

Consistent with the SMS regulations, sediment cleanup levels apply to the sediment bioactive zone (upper 10 cm of the sediment column). The cleanup levels do not directly apply to subsurface sediments, but the SMS require that the potential risks of the current and/or future exposure of deeper sediments be considered and be minimized through the implementation of the cleanup action. Areas where soils are excavated just above the high-water line (e.g., AG-6 area) will also need to meet sediment cleanup levels to address any potential for soil erosion to adjacent sediments.

3.3 Applicable Local, State, and Federal Laws

Cleanup actions must comply with applicable local, state, and federal laws. In certain cases, a permit is required. In other cases, the cleanup action must comply with the substantive requirements of the law but are exempt from the procedural requirements of the law (RCW 70.105D.090 and WAC 173-340-710). Prior the decision to perform the work under an AO, the City applied for and has received the following permits and approvals:

- Mitigated Determination of Non-significance
- City of Gig Harbor Shoreline Management Substantial Development – October 25, 2007
- HPA
- 401 Water Quality Certification
- 404/10 Permit U.S. Army Corps of Engineers (Corps) and Section 106 Concurrence
- Land Clearing and Grading Permit

4 DESCRIPTION OF AND BASIS FOR SELECTED REMEDIAL ALTERNATIVES

This section includes a summary of the proposed upland and sediment cleanup alternatives.

4.1 Upland Areas

As discussed in Section 2, only two upland areas require cleanup:

- Area AHA-1 – This area is just outside of the north side door to the boat shed. This area will be excavated to a depth of 3 feet over a small area of 25 square feet. After confirmation samples confirm that cleanup levels have been met (confirmation sampling methods are set forth in Technical Memorandum No. 1), the area will be backfilled to grade with clean soil. Because removal is a permanent alternative, no further evaluation is required.
- Area AG-9 – This approximately 2-foot-thick-fill layer with elevated PAH concentrations is about 8 to 10 feet below the existing grade and overlain by clean soil. Though this area has been the subject to a number of investigations, the lateral extent of this fill layer has not been completely defined. However, groundwater in this area has been demonstrated to meet cleanup levels.

As part of the removal of the creosoted wooden bulkhead, as required by the HPA, the land behind the bulkheads will be reconfigured to a gentle slope down to the beach. This regrading requires excavation in the area of the lens of charred wood and will result in removal of the material where it would intersect the new slope. However, as the slope is regraded, this layer will be at an increasing distance below the surface as the distance from the bulkhead increases (Figures 4 and 5). Groundwater monitoring has determined that the lens of soils with elevated PAHs is not impacting groundwater or surface water quality. A disproportionate cost analysis was performed (WAC 173-340-360(2)(b)(i) and WAC 173-340-360(3)(f)).

For the purposes of evaluating alternatives for addressing the remnants of the charred wood layer (e.g., lens) that remains buried in the area requiring regrading for the new slope, the following section presents a disproportionality evaluation, which considers the increased environmental protectiveness achieved with increased soil removal and associated costs.

4.1.1 MTCA Disproportionate Cost Analysis – Area AG9

The MTCA analysis of disproportionate costs (WAC 173-340-360(2)(b) and 173-340-360(3)) is used to evaluate which cleanup alternatives, among those that otherwise meet threshold requirements, are permanent to the maximum extent practicable. This analysis (Table 2) compares the relative benefits and costs of cleanup alternatives. Seven criteria are used in the disproportionate cost analysis as specified in WAC 173-340-360(3)(f):

- Protectiveness
- Permanence
- Costs
- Long-term effectiveness
- Short-term risk management
- Implementability
- Considerations of public concerns

The analysis compares the relative benefits of each alternative against those provided by the most permanent alternative. A majority of these benefits are environmentally based while others are related but non-environmental, such as “implementability.”

The comparison of costs and benefits may be quantitative, but is more often qualitative, or subjective. Costs are disproportionate to benefits if the incremental costs of the more permanent alternative exceed the incremental degree of benefits achieved by the other lower-cost alternative (WAC 173-340-360(e)(i)). Where two or more alternatives are equal in benefits, the department shall select the less costly alternative (WAC 173-340-360(e)(ii)(c)).

At this Site, quantitative data is available regarding the estimated amount of clean soil that would need to be removed to access the lens of soil with elevated PAHs (Figure 5 and Table 2). These data have been used to help inform a qualitative analysis of the protectiveness, permanency, and long-term effectiveness of each alternative (Table 2). The MTCA regulation allows Ecology to use best professional judgment to assess benefits qualitatively and to use its discretion to favor or disfavor qualitative benefits (WAC 173-340-360(3)(e)(ii)(c)).

Based on this analysis, if the lens is encountered during field activities near the bulkhead (Figure 5), Alternative 2 will be implemented. Both alternatives will ensure that the lens is at least 3 feet below the final grade, which will be protective of future uses.

Four alternatives were evaluated for remediation of the cPAH layer. Alternative 1 is the removal of the bulkhead and regrading of the slope as required by the HPA (mitigation element) and to be consistent with the conceptual park design. If the lens is not encountered, then no further action would be required to remove the cPAH layer beyond that required for the design grade (Figure 5). Since it is not known how far toward the water this layer extends, and this regrading may result in the cPAH layer being in direct contact with, or buried only slightly under, the shoreline, Alternative 1 may not meet cleanup objectives. In this case, Alternative 2 would involve further excavation into the slope and the placement of backfill to achieve the final design grade. This would require removing up to an additional 800 yards of soil for an additional cost of \$36,000 (final excavation volume will be based on field observation during excavation). The overexcavated slope would then be backfilled and graded, resulting in any of the remnant cPAH layer being buried at least 3 feet below the ground surface with clean soils at the waterward face of the slope (Table 2).

4.2 Sediment Areas

The presence of surface sediment chemical concentrations above the SMS and the need to maintain marine structures central to the community's expectations limit potential cleanup action alternatives that are cost-effective, permissible, and implementable. The selection of the Revised Dredging and Capping Alternative B was based on an evaluation of cleanup action alternatives in terms of net environmental benefits, community acceptance, cost, engineering feasibility, and implementability. This evaluation is detailed in the following Technical Memoranda and summarized in Table 3.

- Technical Memorandum No. 2. Revised Technical Memorandum No. 2 – Sediment Cleanup Study Report and Analysis of Brownfields Cleanup Alternatives. February 2007.
- Technical Memorandum. Revised Dredging and Capping Alternative B. March 29, 2007.

5 DESCRIPTION OF THE PROPOSED CLEANUP ACTION

5.1 Sediment Remediation

The Eddon Boatyard Sediment Remediation Project will be constructed in two phases. The first phase will include demolition of the existing creosoted bulkhead, pier, and marine rails; removal of the gangway and floating dock; and cleanup of sediments by dredging, backfilling, and capping (Revised Capping and Dredging Alternative B). After demolition and removal, approximately 2,000 cubic yards (cy; in situ volume) of silty, sandy sediment will be dredged and disposed of at an approved off-site upland disposal facility. With the exception of one area where dredging has occurred historically, dredged areas will be backfilled with clean sand to the original grade. An engineered cap will be used to cover and contain sediments in non-dredged areas. The total dredge, backfill, and engineered cap area will total less than 0.5 acre. All dredged and capped areas will receive a final layer of habitat material to create a new substrate that closely matches existing conditions and enhances habitat value (details are provided in the construction documents).

5.2 Upland Remediation

Upland soil cleanup includes the following:

- Soil at AHA-1 will be removed to a depth of 2 feet and disposed of off site. Details of the removal are provided in the construction documents.
- Removal of the bulkhead and regrading of the slope as required by the HPA (mitigation element) to be consistent with the conceptual park design will need to address soils near AG-9. The creosote-treated bulkhead, which includes 26 creosote-treated piling, will be removed. As part of the removal of the creosoted wooden bulkhead, the bank will be reconfigured (Alternative A). Soil confirmation testing will be required to assess whether the lens of soil with elevated PAHs is encountered (visually identified as the lens with wood material) as the excavation moves back from the bulkhead. If the lens is encountered during removal to meet the final topography as defined in the contract documents, then additional removal will be required and the area backfilled to specified grade (Alternative B). The new shoreline bank will receive habitat material and will be hydroseeded.

5.3 Compliance Monitoring and Contingency Responses

Water Quality Certification – Order No. 5228 and Corps Public Notice No. NWS-2007 785-NO (Water Quality Certification) was issued on November 19, 2007, and addresses water quality and sediment monitoring activities during construction. This Order requires the submittal and approval of a Water and Sediment Monitoring Plan (Monitoring Plan) prior to beginning work at the Site. As required by the Water Quality Certification and the AO (Table 1), Ecology’s written approval is required prior to beginning the work. The Monitoring Plan will include:

- Water quality monitoring during construction (Figure 6)
- “Z” surface (upper 10 centimeters) sampling at three locations (Figure 6) within the Contaminated Sediment Removal Area A after dredging where backfilling is not planned. These three locations will also serve as confirmation sampling at waterward edge of Contaminated Sediment Removal Area A.

The Ecology Water Quality Certification and the Monitoring Plan set forth contingency response actions. Other confirmation sampling that will be performed for this cleanup includes confirmation soil sampling at AHA-1 and Area AG-9. Upland soil confirmation sampling procedures are detailed in Technical Memorandum No. 1.

5.4 Institutional Controls

In conjunction with compliance monitoring, institutional controls will be applied to limit or prohibit activities that could interfere with the integrity of the cleanup action. Restrictive covenants will be recorded for all sediment cap areas and for soils left at depth near AG-9. Institutional controls will include deed restrictions (limited to City property) and signage that clearly identify aquatic cap areas to avoid/restrict future disturbance of the isolated sediments. Further, any activities associated with the future operation of a demonstration boatyard will be required to be in full compliance with the General National Pollutant Discharge Elimination System (NPDES) Boatyard permit. These elements will be presented in the Institutional Control Plan (see Table 1 of the AO).

5.5 Sediment Area Long-term Monitoring Plan

With institutional controls in place and with confirmation during construction that cleanup levels have been met waterward of Contaminated Sediment Removal Area A, periodic

review, as defined by MTCA, will include the following long-term monitoring elements. The elements discussed below will be presented in a Long-term Monitoring Plan (see Table 1 of the AO). The focus of long-term monitoring is focused on confirming that the cap integrity is maintained. The City will visually inspect the cap areas annually for 5 years during low tide conditions to determine whether the cap material has remained in place and has not been significantly disturbed. If the cap material is present, there will be no action and it will be assumed that the thick-layer cap work is achieving performance standards. If fine-grained material is present, rather than the original cap material, additional sampling using hand-held digging equipment ("hand cores") will be conducted to determine if material is moving on top of and covering the cap or the cap material has eroded away from the original cap area. The condition of the cap will be documented (photographs) and summarized annually (the Long-term Monitoring Plan will provide a schedule of submittals) in a brief memorandum to Ecology. If significant disturbance is observed, any additional actions will be discussed with Ecology. The Long-term Monitoring Plan will also identify two locations where the surface sediments (upper 10 centimeters) will be sampled during Year 3 and Year 5. Sediments at these two locations will be submitted for total PCBs, total mercury, total organic carbon, total solids, and TBT porewater. Following each of the two sampling events, the results will be provided to Ecology in the annual memoranda.

6 IMPLEMENTATION OF THE CLEANUP ACTION

All permits for both the upland and sediment cleanup elements (and rebuilding of the pier and marine railways) were received on March 20, 2008. The City has requested sealed bid proposals for construction of the first phase of the Eddon Boatyard Sediment Remediation Project.

Contract documents included Contract Plans, Contract Provisions, Contract Specifications, and Addenda. Sealed bid proposals were received on April 30, 2008, and the contractor selection was completed in May 2008. The project Notice to Proceed is expected to be issued following Public Comment on the AO. Mobilization and construction preparations can begin immediately after the Notice to Proceed is issued and the contractor has provided all the required submittals. The Site cleanup actions described in this CAP shall be completed within 90 working days after the Notice to Proceed is issued. This phase of the project is scheduled to be completed by March 30, 2009. This constitutes a reasonable restoration timeframe as required under WAC 173-340-360.

The second phase of the park development project, which includes rebuilding the pier and marine rails on their historical footprints, and reinstalling the existing gangway and floating dock, will be performed in subsequent construction seasons.

7 REFERENCES

Anchor Environmental, L.L.C. (Anchor). 2004. Sampling and Analysis Plan. Prepared for City of Gig Harbor. December.

Anchor. 2005. Data Assessment and Conceptual Cleanup Plan, Eddon Boatyard Property. Prepared for the City of Gig Harbor. August.

Krazan and Associates, Inc. 2003. Geotechnical Engineering-Phase II Environmental Investigation. Proposed Harbor Cove Development, 3711 and 3805 Harborview Drive, Gig Harbor, Washington. Poulsbo, Washington.

Michelsen, Dr. Teresa (Washington Department of Ecology), Travis C. Shaw (U.S. Army Corps of Engineers [Corps]), and Stephanie Stirling (Corps) for the PSDDA/SMS agencies. 1996. Testing, Reporting, and Evaluation of TBT Data in PSDDA and SMS Programs. October.

Saltbush Environmental Services, Inc. 1999. Phase I Environmental Site Assessment. The Harborview Drive Project, Gig Harbor, Pierce County, Washington. Tacoma, Washington.

TABLES

Table 1
Soil and Sediment Cleanup Levels

Parameter	Matrix	Cleanup Level
TPH	Soil	MTCA, Method A groundwater cleanup levels, and soil cleanup standards for unrestricted land use
cPAH	Soil	MTCA, Method A groundwater cleanup levels, and soil cleanup standards for unrestricted land use
Lead	Soil	MTCA, Method A groundwater cleanup levels, and soil cleanup standards for unrestricted land use
SMS chemicals	Sediment	Cleanup Screening Level
TBT	Porewater	0.15 µg/L

Notes:

µg/L = micrograms per liter

cPAH = carcinogenic polyaromatic hydrocarbon

SMS = Sediment Management Standards

TBT = tributyltin

TPH = total petroleum hydrocarbon

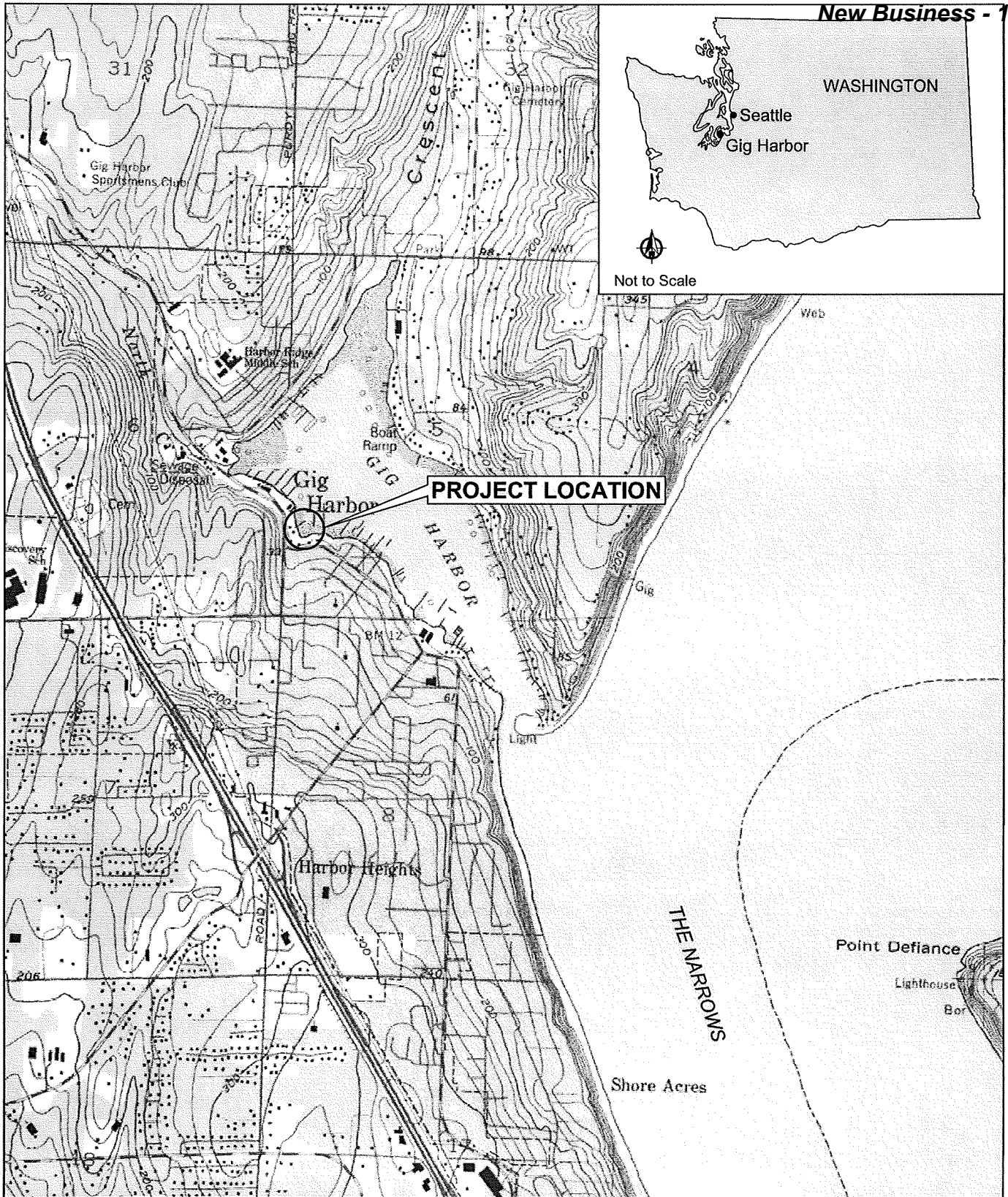
Table 2
Disproportionate Cost Analysis
WAC 173-340-360(2)(b)(i) and WAC 173-340-360(3)(f)

	Excavation Alternative 1	Excavation Alternative 2	Excavation Alternative 3	Excavation Alternative 4
Soil Removal Volume	1,300 cy	2,100 cy	2,500 cy	3,800 cy
Scenario Cost	\$114,000	\$150,000	\$185,000	\$276,000
Additional Soil Volume	Not applicable	800 cy	1,200 cy	2,500 cy
Overall Protectiveness	Groundwater monitoring has determined that the lens of soils with elevated PAHs is not impacting groundwater or surface water quality. The TEE determined that no further ecological evaluation is required if soils are below the point of compliance. The property will be developed as a park and the point of compliance depth interval that represents a reasonable estimate of the depth of soil is that could be excavated and distributed at the soil surface as a result of Site development activities, resulting in exposure by ecological receptors. This depth has been set at 3 feet. Remaining soils will have a minimum of 3 feet of clean soil above the lens. Alternative makes least use of removal and disposal, and most use of containment. Project will be implemented to avoid any erosion and impacts to adjacent surface waters. Soil confirmation testing will be required to assess whether the lens of soil with elevated PAHs is encountered (visually identified as the lens with wood material) as the excavation moves back from the bulkhead. If the lens is encountered during removal to meet the final topography as defined in the Contract Documents, then additional removal will be required and the area backfilled to specified grade.	Groundwater monitoring has determined that the lens of soils with elevated PAHs is not impacting groundwater or surface water quality. The TEE determined that no further ecological evaluation is required if soils are below the point of compliance. The property will be developed as a park and the point of compliance depth interval that represents a reasonable estimate of the depth of soil is that could be excavated and distributed at the soil surface as a result of Site development activities, resulting in exposure by ecological receptors. This depth has been set at 3 feet. Remaining soils will have a minimum of 3 feet of clean soil above the lens. Alternative makes greater use of removal and disposal. Project will be implemented to avoid any erosion and impacts to adjacent surface waters.	Groundwater monitoring has determined that the lens of soils with elevated PAHs is not impacting groundwater or surface water quality. The TEE determined that no further ecological evaluation is required if soils are below the point of compliance. The property will be developed as a park and the point of compliance depth interval that represents a reasonable estimate of the depth of soil is that could be excavated and distributed at the soil surface as a result of Site development activities, resulting in exposure by ecological receptors. This depth has been set at 3 feet. Remaining soils will have a minimum of 3 feet of clean soil above the lens. Alternative makes greater use of removal and disposal. Project will be implemented to avoid any erosion and impacts to adjacent surface waters.	Groundwater monitoring has determined that the lens of soils with elevated PAHs is not impacting groundwater or surface water quality. The TEE determined that no further ecological evaluation is required if soils are below the point of compliance. The property will be developed as a park and the point of compliance depth interval that represents a reasonable estimate of the depth of soil is that could be excavated and distributed at the soil surface as a result of Site development activities, resulting in exposure by ecological receptors. This depth has been set at 3 feet. Remaining soils will have a minimum of 3 feet of clean soil above the lens. Alternative makes greater use of removal and disposal. Project will be implemented to mitigate increased risk of erosion and impacts to adjacent surface waters.
Permanence	Remaining soils will have a minimum of 3 feet of clean soil above the lens. Alternative makes least use of removal and disposal, and most use of containment. Project will be implemented to avoid any erosion and impacts to adjacent surface waters.	Remaining soils will have a minimum of 3 feet of clean soil above the lens. Alternative makes greater use of removal and disposal. Project will be implemented to avoid any erosion and impacts to adjacent surface waters.	Remaining soils will have a minimum of 3 feet of clean soil above the lens. Alternative makes greater use of removal and disposal. Project will be implemented to avoid any erosion and impacts to adjacent surface waters.	Remaining soils will have a minimum of 3 feet of clean soil above the lens. Alternative makes greater use of removal and disposal. Project will be implemented to mitigate increased risk of erosion and impacts to adjacent surface waters.
Long-term Effectiveness	Alternative makes least use of removal and disposal, and most use of containment. Project will be implemented to avoid any erosion and impacts to adjacent surface waters.	Alternative makes greater use of removal and disposal. Project will be implemented to avoid any erosion and impacts to adjacent surface waters.	Alternative makes greater use of removal and disposal. Project will be implemented to avoid any erosion and impacts to adjacent surface waters.	Alternative makes greater use of removal and disposal. Project will be implemented to mitigate increased risk of erosion and impacts to adjacent surface waters.
Short-term Risk Management	Soil confirmation testing will be required to assess whether the lens of soil with elevated PAHs is encountered (visually identified as the lens with wood material) as the excavation moves back from the bulkhead. If the lens is encountered during removal to meet the final topography as defined in the Contract Documents, then additional removal will be required and the area backfilled to specified grade.	Increased volume of excavation as it is expanded further inland; increased removal of overlying material to get at the lens, segregation of material, and backfilling to return to design elevations.	Increased complexity as excavation is expanded further inland; this complexity is driven by increase ground disturbance, removal of overlying material to get at the lens, segregation of material, and backfilling to design elevations.	Significant increase in complexity and logistical problems as excavation is expanded further inland, disturbing ground that is needed for staging and stockpiling while widening the zone or exposed soil and disturbance; further increases in removal of overlying material to get at the lens, segregation of material, and backfilling to design elevations.
Implementability	Alternative is consistent with permit requirements that the bulkhead be removed and with park development plans. Alternative does maximize removal of the lens of soil with elevated PAHs.	Alternative is consistent with permit requirements that the bulkhead be removed and with park development plans. Alternative does maximize removal of the lens of soil with elevated PAHs.	Alternative is consistent with permit requirements that the bulkhead be removed and with park development plans. Alternative does maximize removal of the lens of soil with elevated PAHs.	Alternative is consistent with permit requirements that the bulkhead be removed and with park development plans. Alternative likely goes well beyond maximizing removal of the lens of soil with elevated PAHs.
Consideration of Public Concerns	Alternative is consistent with permit requirements that the bulkhead be removed and with park development plans. Alternative does maximize removal of the lens of soil with elevated PAHs.	Alternative is consistent with permit requirements that the bulkhead be removed and with park development plans. Alternative does maximize removal of the lens of soil with elevated PAHs.	Alternative is consistent with permit requirements that the bulkhead be removed and with park development plans. Alternative does maximize removal of the lens of soil with elevated PAHs.	Alternative is consistent with permit requirements that the bulkhead be removed and with park development plans. Alternative likely goes well beyond maximizing removal of the lens of soil with elevated PAHs.

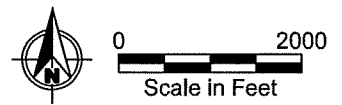
Notes:

- 1 = Costs for excavation, backfill, and disposal only
- 2 = Volumes indicated total removal volume; after re-handling, some material can be replaced as backfill
- cy = cubic yards
- TEE = Terrestrial Ecological Evaluation

FIGURES

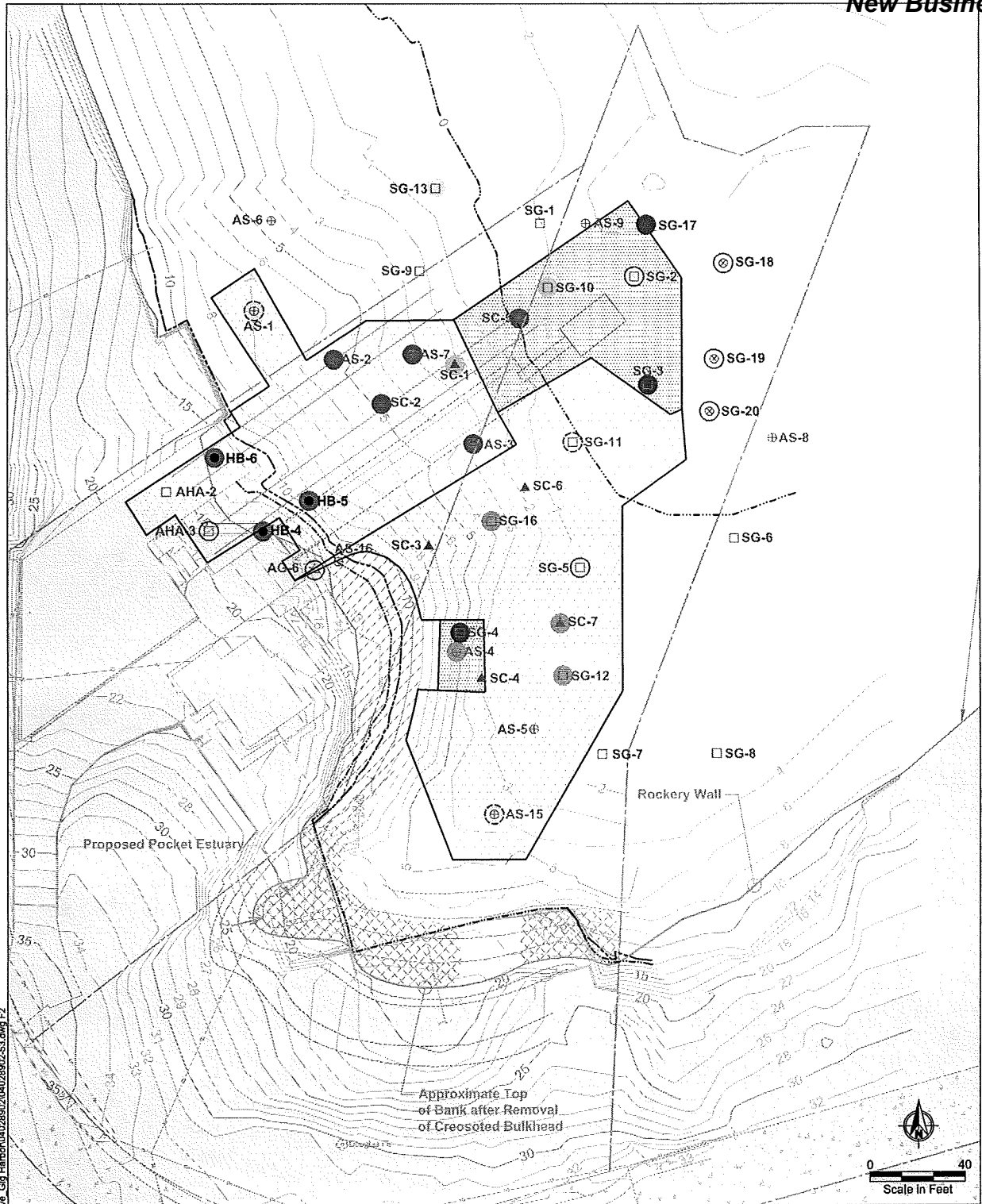


Note: Base map prepared from Terrain Navigator Pro
 USGS 7.5 minute quadrangle map of Gig Harbor, Washington.



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Figure 1
 Vicinity Map
 Eddon Boatyard Property
 Gig Harbor, Washington



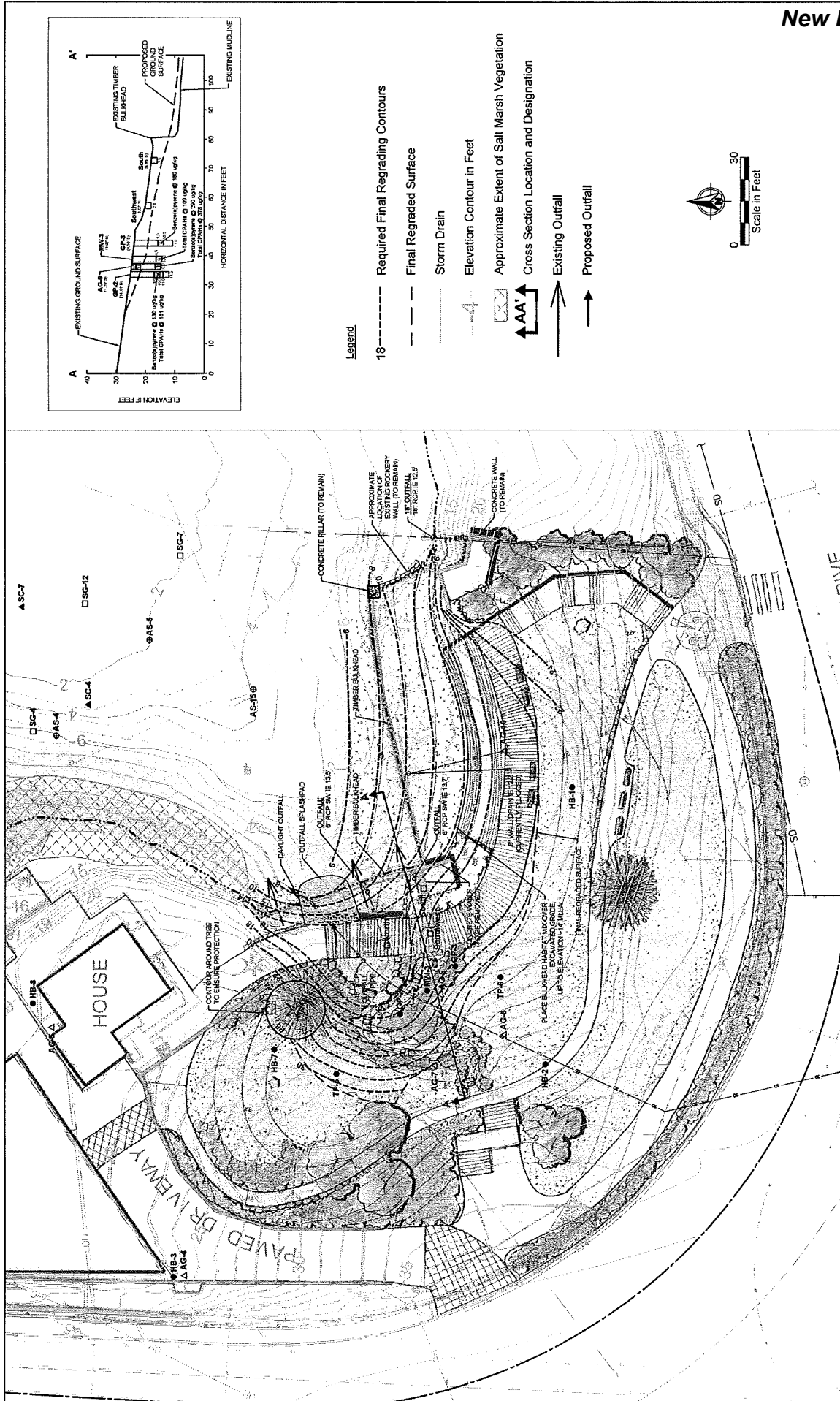
May 19, 2008 3:38pm hmf:esn
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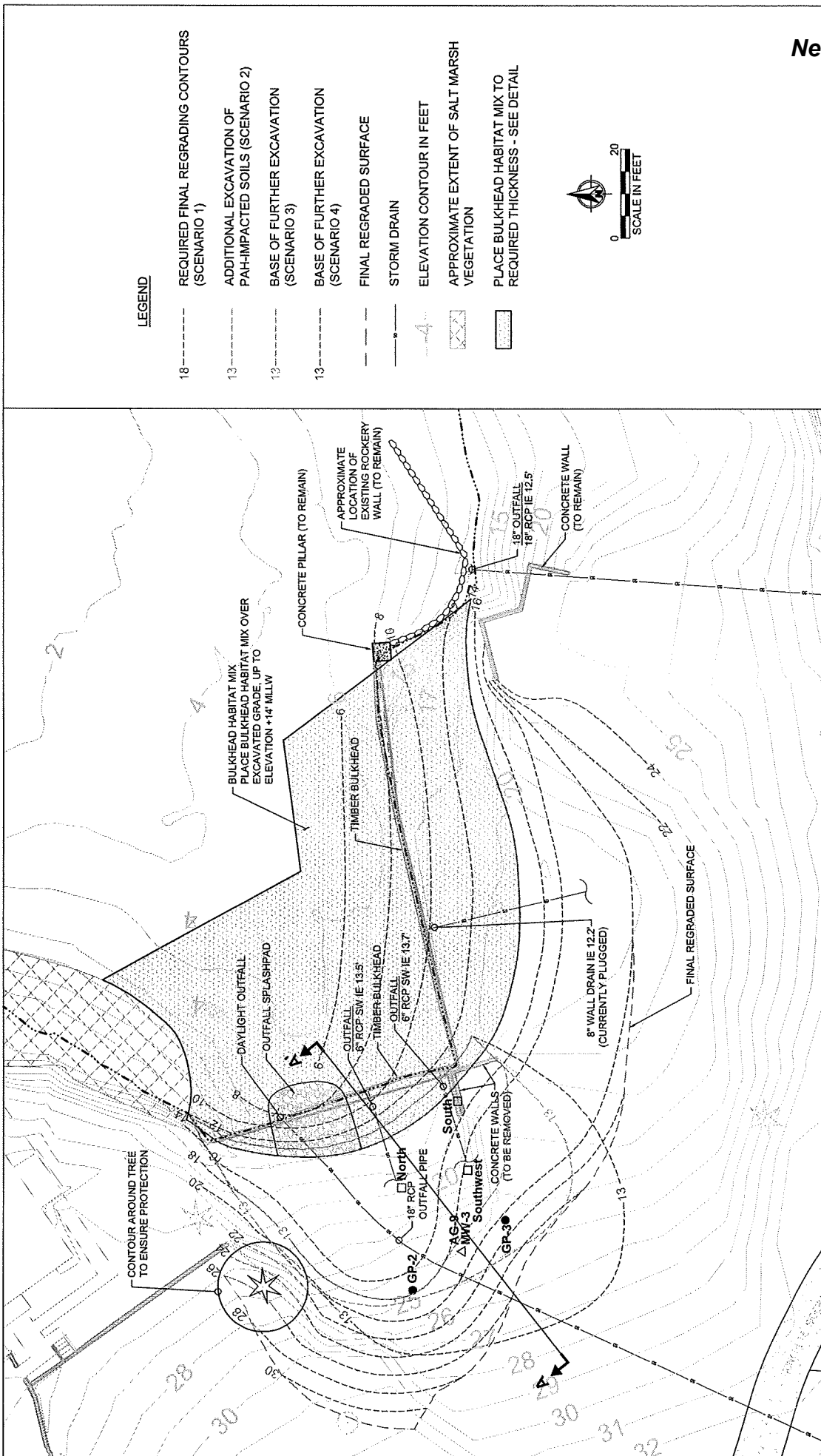
<ul style="list-style-type: none"> ➔ Outfall — Parcel Boundary --- Contour In Feet (Approximate) ▨ Proposed Habitat Plantings ▩ Existing Salt Marsh Vegetation ● HB-1 Existing Soil/Sediment Sample Location and Number --- Bank Contours after Bulkhead Removal ○ Prescriptive Removal, Grading, and Capping 	<ul style="list-style-type: none"> --- Historical Footprint of Pier Anchor Sample Location and Number 2005 AS-1 ⊕ Surface Sediment AG-1 △ Geoprobe AHA-1 □ Hand Auger 2006 SC-1 ▲ Subsurface Sediment Core SG-7 □ Surface Sediment 2007 SG-17 ⊗ Surface Sample 	<ul style="list-style-type: none"> ● Exceeds Sediments Cleanup Screening Levels (CSL) ● Exceeds Sediment Quality Standards (SQS) ● Additional Points with Porewater TBT >0.15 µg/L ● Additional Points with Bulk TBT >400 µg/kg ● Additional Points with TOCN TBT >6 ppm ○ Additional Points with Porewater TBT >0.05 ○ Additional Points with Bulk TBT >100 µg/kg 	<ul style="list-style-type: none"> ▭ Dredge and Backfill to Original Grade ▨ Dredge without Backfill to Original Grade ▩ Sediment Isolation Cap --- Mean High Water Line --- Mean Higher High Water Line --- Mean Lower Low Water Line
---	---	--	--

Notes:
 1. Base map prepared from survey provided by David Evans and Associates dated May 2006.
 2. Horizontal Datum: SP NAD 83 WA South.
 3. Vertical Datum: Mean Lower Low Water (MLLW).



Figure 2
 Summary of Sediment Chemistry
 Eddon Boatyard Property
 Gig Harbor, Washington

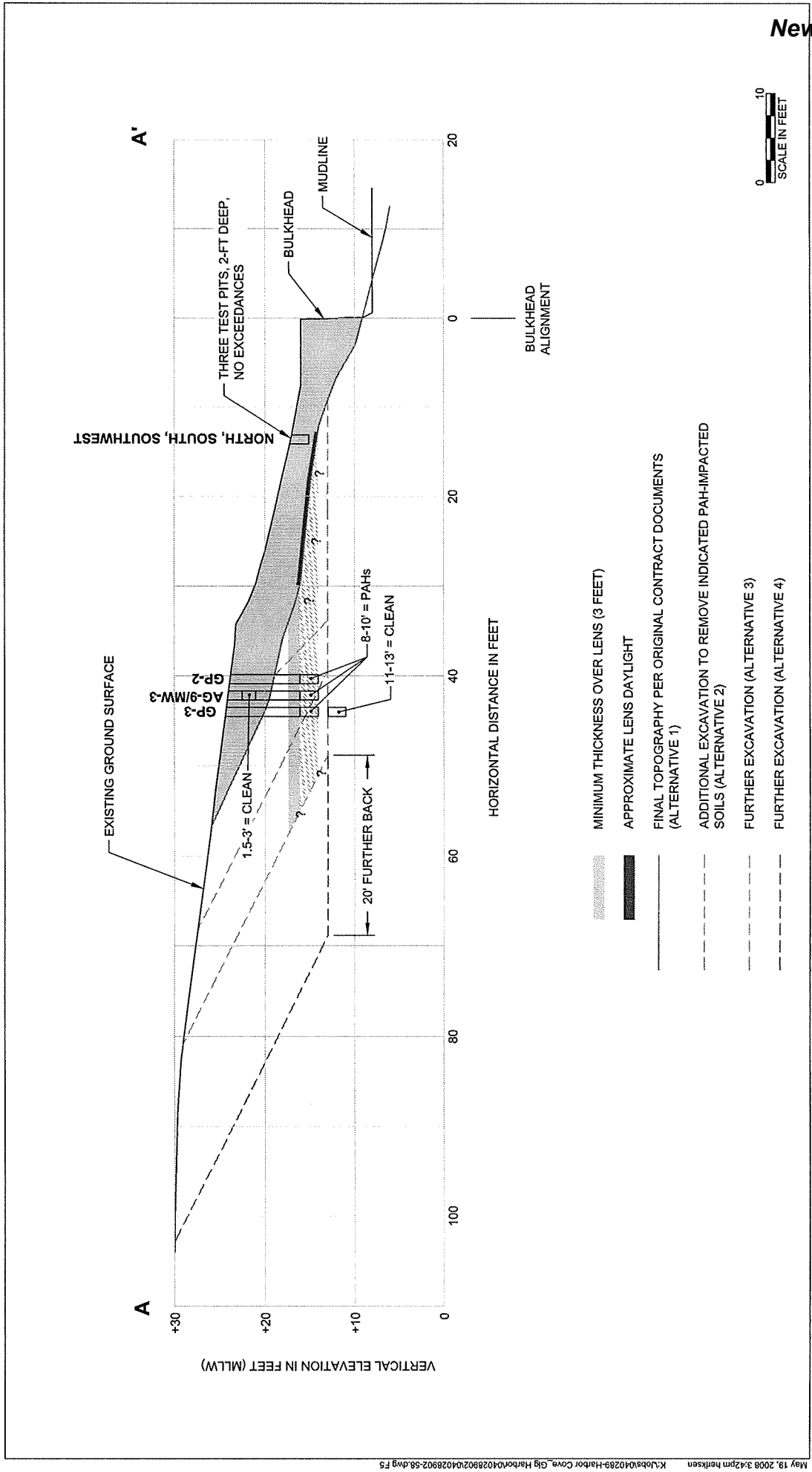




New Business - 1

Figure 4
Excavation Behind Timber Bulkhead - Plan View
Eddon Boatyard Property
Gig Harbor, Washington





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Figure 5
Area AG-9 Soil Excavation Alternatives - Cross Section
 New Eddon Boatyard Property
 Gig Harbor, Washington

EXHIBIT C

SUMMARY OF TECHNICAL MEMORANDA AND OPINION LETTERS

1. Phase I Environmental Site Assessment, The Harborview Drive Project, Gig Harbor, Pierce County, Washington. Saltbush Environmental Services, Project No. 990711048, August 23, 1999.
2. Geotechnical Engineering – Phase II Environmental Investigation, Proposed Harbor Cove Development, 3711 and 3805 Harborview Drive, Gig Harbor, Washington, Krazan & Associates, Project No. 104-03021, July 21, 2003.
3. Data Assessment and Conceptual Cleanup Plan, Eddon Boatyard Property, 3711 Harborview Drive, Anchor Environmental, August, 2005.
4. Technical Memorandum No. 1. Anchor Environmental, September 28, 2005.
 - a. Ecology Opinion Letter, October 7, 2005.
5. Technical Memorandum No. 2, Evaluation of Sediment Cleanup Alternatives, Anchor Environmental, January 2006.
6. Technical Memorandum No. 3, Work Plan for proposed Investigation Activities, Anchor Environmental, June, 12, 2006.
 - a. Ecology Opinion Letter, June 29, 2006
7. Technical Memorandum No. 3 Amendment, Proposed Investigation Activities, Anchor Environmental, July 18, 2006.
8. Technical Memorandum No. 4, Completed Investigation Activities. Anchor Environmental, June 12, 2006.
 - a. Ecology Opinion Letter, June 29, 2006.
9. Technical Memorandum No. 5, Sediment Sampling and Analysis Plan, Additional Characterization Activities. Anchor Environmental, July 17, 2006.
10. Technical Memorandum No. 6. Results of Additional Sediment Sampling. Anchor Environmental, January 26, 2007.
11. Technical Memorandum No. 7, Upland Data Results. Anchor Environmental, October, 2006.
12. Revised Technical Memorandum No. 2, Sediment Cleanup Study Report and Analysis of Brownfields Cleanup Alternatives. February 28, 2007.
13. Eddon Boatyard Sediment Cleanup – Revised Dredging/Capping Alternative B, Anchor Environmental, March 29, 2007.

- a. Ecology Opinion Letter, April 17, 2007.

- 14. Technical Memorandum No. 8, Groundwater Testing Results. Anchor Environmental, March, 2008.

- 15. Technical Memorandum No. 9. Additional Surface Sediment Sampling Test Results. Anchor Environmental, August 15, 2007.

- 16. Technical Memorandum No. 10: Terrestrial Ecological Evaluation. Anchor Environmental, March 26, 2008.

Exhibit D – Public Participation Plan



PUBLIC PARTICIPATION PLAN

Eddon Boat Park Site

Gig Harbor, Washington

Prepared by

Washington State Department of Ecology
Southwest Regional Office
Toxics Cleanup Program
300 Desmond Drive
Olympia, Washington 98504-7775

May / 2008

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INTRODUCTION

The Washington State Department of Ecology (Ecology) has developed this public participation plan to promote meaningful community involvement during the cleanup of the Eddon Boat Park site. This plan describes the tools that Ecology uses to inform the public about site activities and identify opportunities for the community involvement.

The City of Gig Harbor (the City) is the potentially liable person (PLP) responsible for the cleanup of this site. The City plans to begin cleanup of the site under a Cleanup Action Plan (CAP) and an Agreed Order (legal agreement) with Ecology.

LOCATION AND SITE BACKGROUND

The Eddon Boat Park site is a 0.95 acre lot located at 3711 and 3805 Harborview Drive in the City of Gig Harbor. (Please see page 6 for a map.) The site is defined by the extent of contamination. The upland portion of the site includes a boat repair building and a vacant house. Two other buildings that used to be there were demolished in 2006. In-water areas include bulkheads, piers, two marine railways and marine sediments. The City plans to develop this site as the Eddon Boat Park.

Site Background

This site was used as a residence, boatyard, and boathouse from the 1940s until 2004. Boats were constructed, repaired, and maintained, and vessels were hauled out and launched there. The south part of the site was historically used as a gravel loading operation, city maintenance shop, and retail store.

The properties that make up the Eddon Boat Park site were proposed as a housing development location for the Harbor Cove Group. In November of 2004, voters approved a Land Acquisition and Development General Obligation Bond for \$3.5 million. The City of Gig Harbor purchased the property in March of 2005. All leases with prior tenants and operators were ended in 2006 and the City of Gig Harbor took over control of the site by November of 2006.

Between 2005 and 2007, the City conducted investigations of the soils, groundwater, and sediments of the upland and marine areas of the site. These investigations were completed with the assistance of a U.S. Environmental Protection Agency (EPA) Brownfields grant, with technical assistance from Ecology's Voluntary Cleanup Program (VCP).

The City wrote a public participation plan and solicited public input in the investigation and cleanup design process under the EPA Brownfields grant. This current public participation plan is a requirement of the Model Toxics Control Act (MTCA) (70.105D RCW) and replaces the former plan.

Site Contamination

Several contaminants have been found at the site in exceedence of state regulatory standards. The contaminants in the sediments portion of the site include:

- **Heavy metals**—arsenic, copper, lead, and mercury.
- **Organotin compounds**—also known as tri-butyl tin (TBT), this substance was used in anti-fouling paints for boats.
- **Polycyclic aromatic hydrocarbon (PAH) compounds**—PAH's are a group of over 100 different chemicals that are formed during the incomplete burning of coal, oil, gas, garbage, or other organic substances like tobacco.
- **Poly-chlorinated biphenyls (PCBs)**—group of toxic chemicals that are no longer produced in the United States, but can persist in the environment for decades.

Carcinogenic (cancer-causing) PAHs are present on the upland portion of the site.

Cleanup Activities

Under the VCP, the City studied the site soils and groundwater. They also removed some contaminated soils and developed a cleanup plan for the sediments. In 2008, the City of Gig Harbor moved from the VCP to Ecology's formal cleanup program, governed by the MTCA.

MTCA requires three major steps in the cleanup process. The Remedial Investigation looks at the extent and nature of contamination at the site. The Feasibility Study evaluates possible cleanup alternatives. The Cleanup Action Plan describes the general cleanup methods. (See page 7 for a diagram of the formal cleanup process.) The Eddon Boat Park site is in the Cleanup Action Plan phase.

PUBLIC PARTICIPATION ACTIVITIES AND RESPONSIBILITIES

The purpose of this Public Participation Plan is to promote public understanding and participation in the MTCA activities planned for this site. This section of the plan addresses how Ecology will share information and receive public comments and community input on the site activities. Ecology uses a variety of activities to increase public participation in the investigation and cleanup of MTCA sites. Ecology will use input provided by the community whenever possible.

The following is a list of the public involvement activities that Ecology will use, their purposes, and descriptions of when and how they will be used during the Eddon Boat Park cleanup. Please see the City of Gig Harbor's November 2006 *Community Involvement Plan* for more information about earlier public involvement processes and for a conceptual design for the future use of the site.

Public Comment Periods and Public Review

Comment periods are the main way Ecology gets feedback from the public on investigations like this. Comment periods usually last 30 days and are required at key points during the investigation, before final decisions are made.

During a comment period, the public can comment in writing. Verbal comments are taken if a public hearing is held. After formal comment periods, Ecology reviews all comments received and may respond in a document called a Responsiveness Summary.

Ecology will consider the need for changes or revisions based on input from the public. If sig-

nificant changes are made, then a second comment period may be held. If no significant changes are made, then the draft document(s) will be finalized.

A public comment period will be held for the Agreed Order for the Cleanup Action Plan (see page 7 for information about this stages of the cleanup process).

Public Meetings and Hearings

Public meetings may be held at key points during the investigation and cleanup process. Ecology also may offer public meetings for actions expected to be of particular interest to the community. These meetings will be held at locations convenient to the community. A public meeting will also be scheduled if ten or more people request one.

Information Repositories

Information repositories are places where the public may read and review site information, including documents that are the subject of public comment. Ecology has established two repositories for the Eddon Boat Park site:

- Peninsula Branch Library, 4424 Point Fosdick Dr. NW, Gig Harbor, WA 98335, (253) 851-3793.
- Washington State Department of Ecology, 300 Desmond Drive, Lacey, WA 98516. Please call (360) 407-6045 for an appointment.

Site information also will be posted on Ecology's Web site at http://www.ecy.wa.gov/programs/tcp/sites/eddonBoatPark/eddon_hp.htm.

Site Register

Ecology's Toxics Cleanup Program uses its bimonthly Site Register to announce all of its public meetings and comment periods, as well as many other activities. To receive the Site Register in electronic or hard copy format, contact Linda Thompson at (360) 407-6069 or by e-mail at Ltho461@ecy.wa.gov. It is also available on Ecology's web site at http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html.

Mailing List

Ecology is compiling a mailing list for the site. It includes individuals, groups, public agencies, elected officials, private businesses, and other known interested parties. The list will be maintained at Ecology's Southwest Regional Office and will be updated when individuals request to be added or removed.

Please contact Hannah Aoyagi at (360) 407-6790 or by e-mail at haoy461@ecy.wa.gov if you would like to be involved or have your address added to or deleted from this mailing list.

Fact Sheets

Ecology will mail fact sheets to persons and organizations interested in the Eddon Boat Park cleanup to inform them of public meetings and comment opportunities and important site activities. Ecology also may mail fact sheets about the progress of site activities.

Web Site

The Eddon Boat Park Web site http://www.ecy.wa.gov/programs/tcp/sites/eddonBoatPark/eddon_hp.htm will have information about public comment periods, investigation progress, and future work.

Newspaper Display Ads

Ecology will place ads in the Tacoma News Tribune to announce public comment periods and public meetings or hearings for the site.

Plan Update

This public participation plan may be updated as the project proceeds. If an update is necessary, the revised plan will be submitted to the public for comment.

Contacts

If you have questions or need more information about this plan or the Sediment Investigation, please contact:

Joyce Mercuri, Site Manager
Washington State Department of Ecology
SWRO Toxics Cleanup Program
P.O. Box 47775
Olympia, WA 98504-7775
Tel: (360) 407-6260
Email: jmer461@ecy.wa.gov

Hannah Aoyagi, Public Involvement Coordinator
Washington State Department of Ecology
SWRO Toxics Cleanup Program
P.O. Box 47775
Olympia, WA 98504-7775
Tel: (360) 407-6790
Email: haoy461@ecy.wa.gov

GLOSSARY

Comment Period: A time period during which the public can review and comment on various documents and proposed actions. For example, a comment period may be provided to allow community members to review and comment on proposed studies or draft reports.

Contaminant: Any hazardous substance that does not occur naturally or occurs at greater than natural background levels

Information Repository: A file containing current information, technical reports, and reference documents available for public review. The information repository is usually located in a public building that is convenient for local residents such as a public school, city hall, or library.

Public Notice: At a minimum, adequate notice mailed to all persons who have made a timely request of Ecology and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the local (city and county) newspaper of largest circulation; and the opportunity for the interested persons to comment.

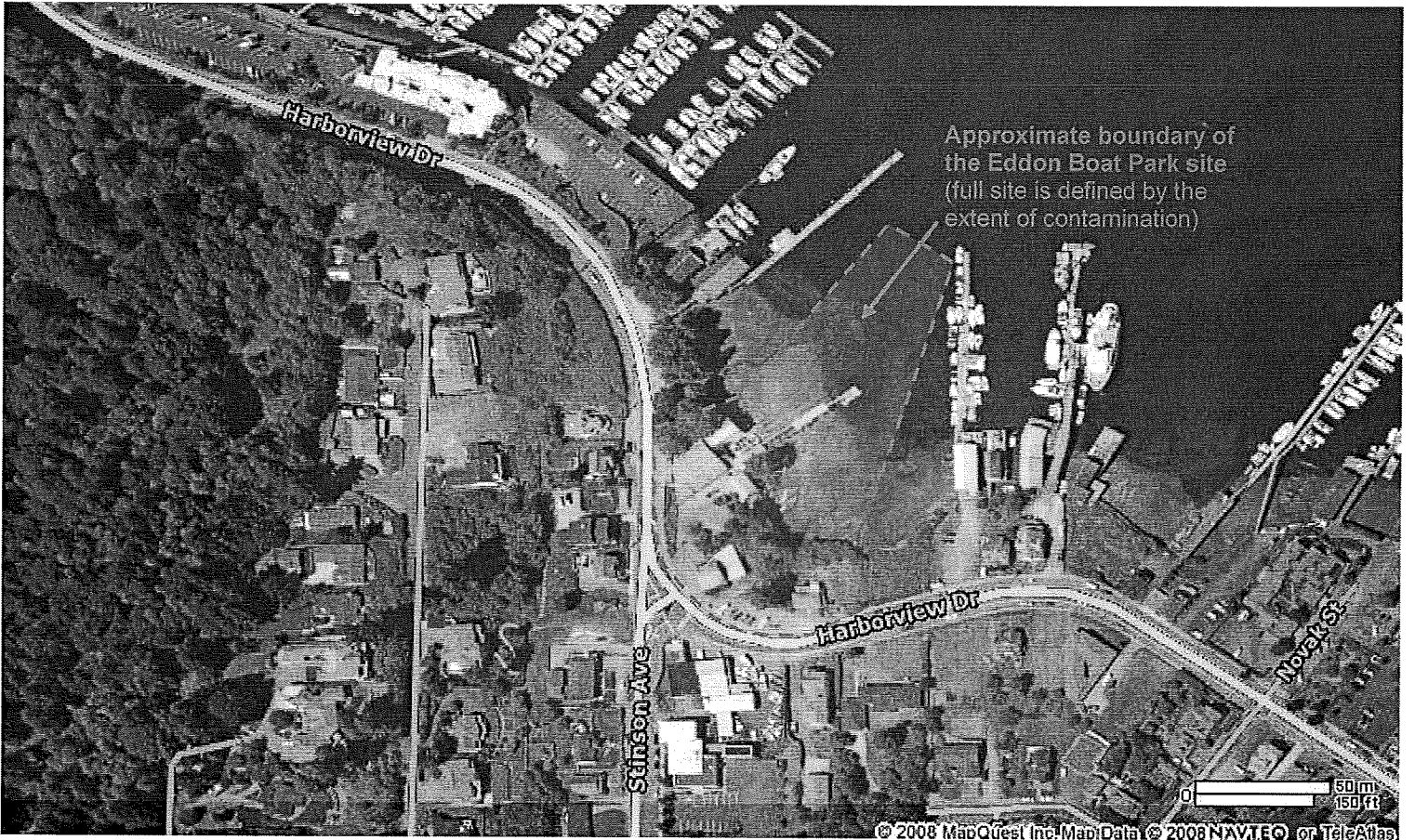
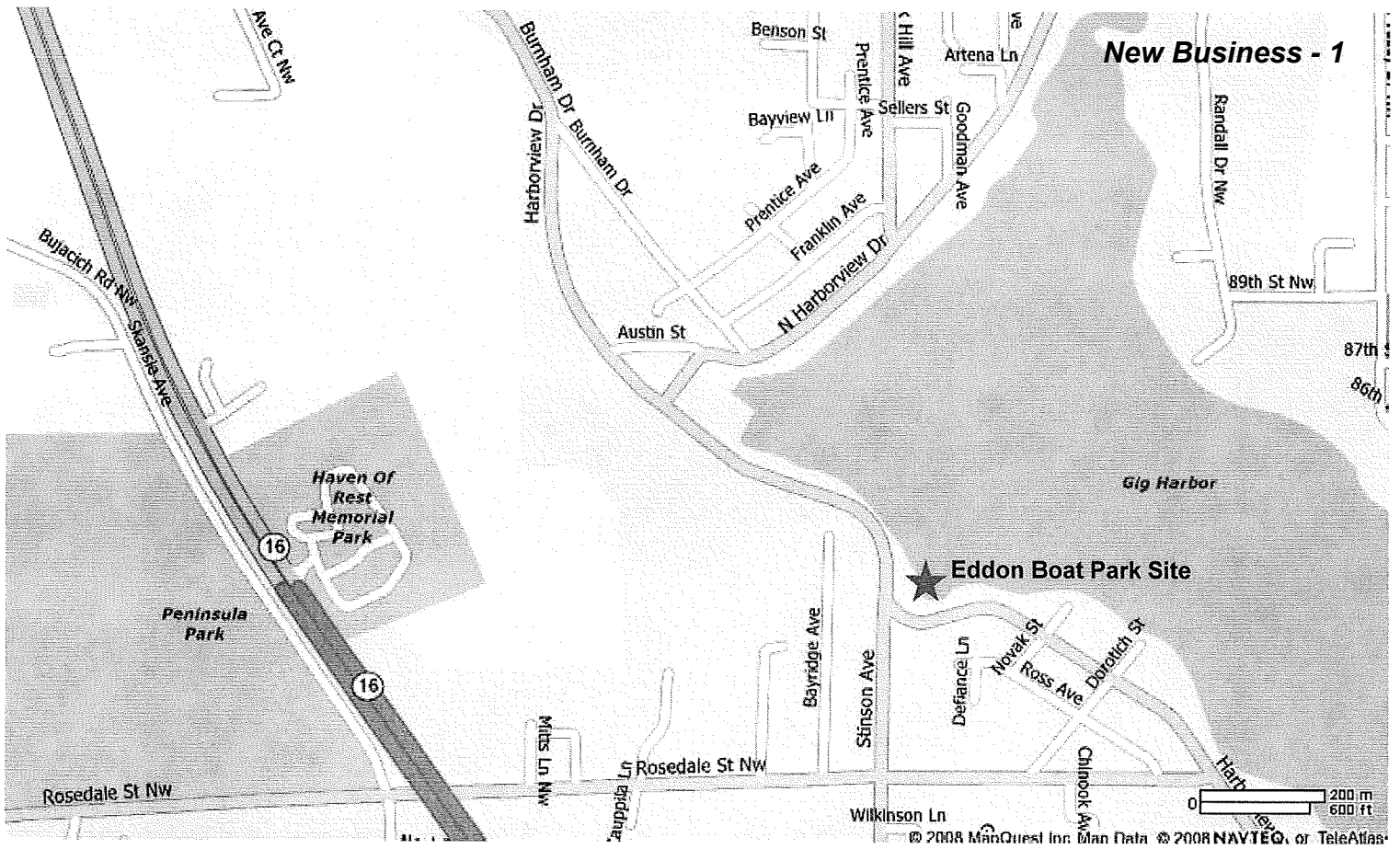
Public Participation Plan: A plan prepared to encourage coordinated and effective public involvement designed to the public's needs at a particular site.

Responsiveness Summary: A summary of oral and/or written public comments received by Ecology during a comment period on key documents, and Ecology's responses to those comments. The responsiveness summary is especially valuable during the Cleanup Action Plan phase at a site when it highlights community concerns.

Risk: The probability that a hazardous substance, when released into the environment, will cause an adverse effect in the exposed humans or living organisms.

Sediments: Settled particles located at the bottom of a lake, river or in wetlands. Sediment(s) also includes settled particulate matter exposed by human activity (e.g., dredging) to the biologically active aquatic zone or to the water column.

Toxicity: The degree to which a substance at a particular concentration is capable of causing harm to living organisms, including people, plants and animals.



Maps of the Eddon Boat Park site at 3711 and 3805 Harborview Drive in Gig Harbor, WA.

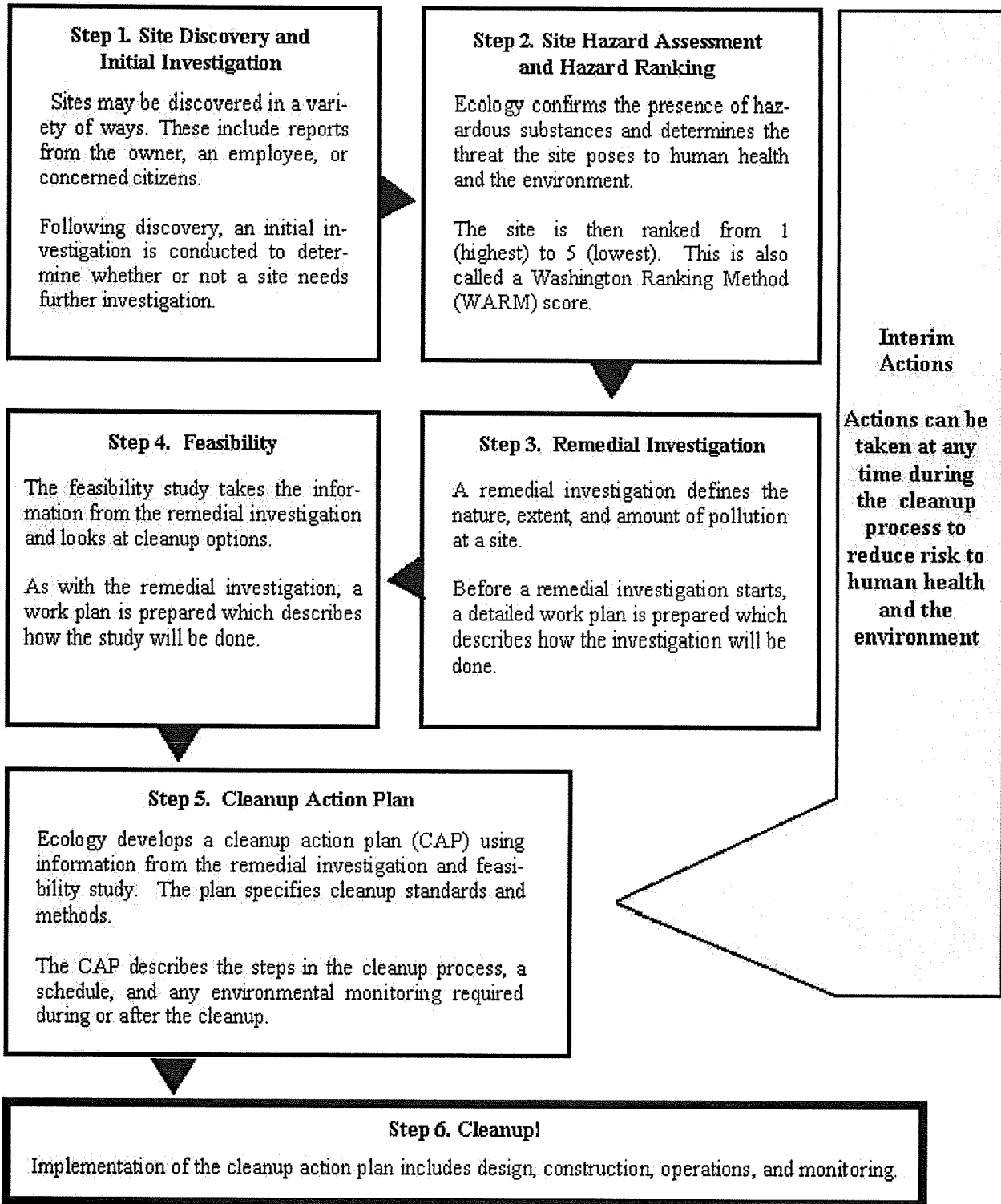


Figure 1. Steps in the formal cleanup process



Subject: Public Hearing and First Reading of Ordinance - Height Restriction Area Criteria Amendment (ZONE 07-0012).

Proposed Council Action: Review ordinance and approve or deny text amendment request at second reading.

Dept. Origin: Planning

Prepared by: Jennifer Kester
Senior Planner *JK*

For Agenda of: May 27, 2008

Exhibits: Draft Ordinance; Planning Commission Minutes; Text Amendment Application

Initial & Date

Concurred by Mayor:	<i>CLH 5/14</i>
Approved by City Administrator:	<i>PK 5/13</i>
Approved as to form by City Atty:	<i>CA 5/13/08</i>
Approved by Finance Director:	<i>CF 5/13/08</i>
Approved by Department Head:	_____

Expenditure	Amount	Appropriation
Required	Budgeted	Required
0	0	0

INFORMATION / BACKGROUND

Attached for the Council's consideration is a draft ordinance that would amend the criteria for removal from height restriction area in order to meet the intent of the height restriction area (HRA).

On September 12, 2005, Carl Halsan of Halsan Frey LLC submitted a request to amend the criteria for removal from height restriction area. Prior to reaching the Planning Commission, the applicant amended his request to ask for a new height restriction area special exception process.

The Planning Commission held a work study session on the proposed amendment on April 3, 2008. During that same work study session, the Planning Commission reviewed an alternative amendment proposed by planning staff that would amend the criteria for removal from height restriction area in order to meet the intent of the height restriction area. The Planning Commission was not in favor of the proposed exception process and preferred the criteria amendment.

At the April 17, 2008 hearing on both amendments, Carl Halsan felt the amendments to the criteria proposed by the Planning Commission would meet the same goals as his exception amendment. Therefore, he withdrew his exception criteria language in favor of the proposed criteria amendment. Only Mr. Halsan testified at the public hearing. The Planning Commission voted unanimously to recommend approval of the application to amend the

criteria for removal from height restriction area. Copies of the minutes for the Planning Commission meetings which these amendments were discussed are attached.

POLICY CONSIDERATIONS

Zoning text amendments are addressed in Chapter 17.100 of the Gig Harbor Municipal Code. There are no criteria for approval of a zoning text amendment, but the Council should generally consider whether the proposed amendment furthers the public health, safety and welfare, and whether the proposed amendment is consistent with the Gig Harbor Municipal Code, the Comprehensive Plan and the Growth Management Act (chapter 36.70A RCW). Zoning text amendments are considered a Type V legislative action (GHMC 19.01.003).

Gig Harbor Comprehensive Plan:

While the comprehensive plan does not specifically address height restrictions or view protection, the most recent revisions to the comprehensive plan adopted in 2007 designate the "View Basin" and "Soundview" as two of the City's neighborhood design areas. Both neighborhoods include properties with views to the Gig Harbor bay, Mt. Rainier and Colvos Passage. The neighborhood design area policies seek to maintain the design characteristics of these neighborhoods to preserve their character. The height restriction area encompasses many of the properties within these neighborhoods. Generally heights are limited within these neighborhoods so as not to restrict views from adjacent properties.

GHMC 17.62 Height Restriction Area

The purpose of this height restriction area is to establish standards for those properties located inside the Gig Harbor view basin where decreased building height shall be required. This is intended to be a limitation on height so as not to restrict views from adjacent properties. (GHMC 17.62.010)

Design Manual:

GHMC 17.99.370(D) states that:

"Allowable building height may be measured from any point within defined buildable areas; provided, that the point of measurement is within 50 feet of the building footprint, as follows:

- 1. In the height restriction area, each lot is allowed a building height of up to 16 feet; provided, that no portion of the structure exceeds 27 feet above natural and finished grade. ..."*

Those properties within the historic district (which is within the HRA) are allowed up to 18 feet in height but have additional restrictions on roof pitch and downhill height.

Staff/Planning Commission Analysis:

The following is a synopsis of the issues discussed and reviewed by the Planning Commission:

The Planning Commission felt it was important to pay particular attention to the intent of the height restriction area to ensure that any new exception process or change to the criteria for removal from the HRA meets that intent.

The Planning Commission was concerned that the special exception proposed by Carl Halsan did not meet the intent of the height restriction area. The height restriction area is "intended to

be a limitation on height so as not to restrict views from adjacent properties.” The proposed special exception would account for impairment of views from only those properties within the height restriction areas, not “adjacent properties” as intended by the Chapter. The Planning Commission felt that views from all properties should be considered in determining if a project should be exempt from the height limitations of the HRA, not just properties within the HRA. It was clear from looking at the existing height restriction area that not all properties with views have been included in the height restriction area. In addition, those property owners with views, but not in the height restriction area, may have an expectation, due to the HRA map, that the properties in the height restriction area will have limited height to preserve their view across those properties.

Furthermore, the Planning Commission felt that an exception process was not an appropriate process for increasing height in the height restriction area. The Planning Commission felt that any developer of property that wanted to be exempt for the height restrictions of the HRA should request an amendment to the HRA map and meet the criteria contained in the Chapter. With an exception process the public would not easily know which properties are exempt from height limitations and which properties need to meet the limitations as the map remains the same.

At the April 3, 2008 work-study session, staff expressed their concern that the current criteria for removal from the height restriction area do not meet the intent of the chapter. A recent decision by the hearing examiner approving the removal of a property from the HRA indicated that the intent of the chapter and the criteria were not consistent. Staff proposed to the Planning Commission an amendment to the criteria to provide necessary internal consistency. The current criteria focus on views from the subject property, not views across the subject property. The chapter is clearly intended to preserve views across properties.

The Planning Commission considered a few items when developing their proposal for changes to the Height Restriction Area intent and criteria for removal from the Area.

- **Adjacent property.** The current intent statement indicates that views from adjacent properties should be protected. The Planning Commission suggests the use of “other properties” rather than “adjacent properties” as properties across the street and within the line-of-sight may have views a proposed project could block. The use of “adjacent properties” is too limiting.
- **Potential Development.** The Planning Commission felt it was important for an applicant requesting removal of a property from the HRA to analyze the potential views gained by redevelopment of surrounding properties. A vacant property may not currently have a view, but once a new office building is placed on a site, a view from the second story may be obtained. That property has the potential for a view which should not be impacted by an exemption from height limitations of the downhill property.

Furthermore the Planning Commission is recommending changes to the intent of the height restriction area chapter to implement the Neighborhood Design Polices of the Comprehensive Plan.

ENVIRONMENTAL ANALYSIS

The City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on January 4, 2006.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

The Planning Commission is recommending approval of the proposed text amendments.

RECOMMENDATION / MOTION

Move to: Staff recommends the Council review the ordinance and approve or deny the text amendment request at second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE CRITERIA FOR REMOVAL OF INDIVIDUAL PROPERTIES FROM THE HEIGHT RESTRICTON AREA MAP TO MEET THE INTENT OF THE HEIGHT RESTRICTION AREA CHAPTER TO LIMIT STRUCTURE HEIGHT AS TO NOT RESTRICT VIEWS FROM OTHER PROPERTIES; AND AMENDING THE INTENT OF THE HEIGHT RESTRICTION AREA TO IMPLEMENT THE COMPREHENSIVE PLAN ESTABLISHED NEIGHBORHOODS WHICH HAVE VIEWS OF GIG HARBOR BAY, MOUNT RAINIER AND THE PUGET SOUND; AMENDING GHMC SECTION 17.62.010 AND 17.62.040 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, a recent decision by the City's hearing examiner approving the removal of a property from the height restriction area illustrates that the intent of the height restriction area chapter (17.62 of the GHMC) and the criteria for removal from the height restriction area are not consistent; and

WHEREAS, the intent of the height restriction area chapter is to establish standards for those properties located inside the Gig Harbor view basin where decreased building height shall be required so as not to restrict views from adjacent properties; and

WHEREAS, the current code criteria for removal from the height restriction area focuses on the views from the property requesting removal and not the views across the subject property from other properties; and

WHEREAS, the current code criteria for removal of individual properties from the height restriction area do not meet the intent of the chapter to limit structure height as to not restrict views from other properties; and

WHEREAS, the City desires to amend the criteria for removal from the height restriction area to meet the intent of the chapter to limit structure height to preserve views across properties; and

WHEREAS, the City desires to amend the intent of the height restriction area chapter to state those neighborhoods which have views of Gig Harbor Bay, Mount Rainier and the Puget Sound thereby implementing the Neighborhood Design Policies of the Comprehensive Plan; and

WHEREAS, on December 13, 2005, a copy of this Ordinance was sent to the Washington Department of Community, Trade and Economic Development, pursuant to RCW 36.70A.106; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on January 4, 2006; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on April 17, 2008 and made a recommendation of approval to the City Council; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on _____, 2008; and

WHEREAS, on _____, 2008, the City Council adopted this Ordinance at second reading during a regular City Council meeting; Now, therefore;

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

Section 1. Section 17.62.010 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.62.010 Intent

The purpose of this height restriction area is to establish standards for those properties located inside the Gig Harbor ~~v~~View ~~Basin and Soundview neighborhoods~~ where decreased building height shall be required. This is intended to be a limitation on height so as not to restrict current or potential views from adjacent other properties.

Section 2. Section 17.20.040 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.62.040 Amendment to height restriction area map.

A. Amendments to the height restriction area map are a Type ~~IV~~ III permit procedure. The procedures established under Chapter 17.10 GHMC and GHMC Title 19 for the consideration of amendments to the zoning district map shall be followed for amendments to the height restriction area map. ~~The criteria for approval shall be as follows:~~

B. Every applicant for the removal of property from the height restriction area shall demonstrate that all of the following criteria have been met:

A. 1. That the request to amend the height restriction area map furthers the goals, policies and objectives of the Land Use, Community Design, Economic Development and Shoreline Management elements of the comprehensive plan;

B. 2. The property ~~or area~~ proposed for exclusion from the height restriction area map, if developed to its fullest height and extent allowed by the underlying zoning district, would not block, impair or adversely affect views from any property within the line-of-sight of the subject property, if such property does not currently possess or could potentially possess a any view of Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows;

C. 3. The gradient of the land within 100 feet of the property or area does not have a slope of five percent or greater toward Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows, excluding the subject property and properties between the subject property and the view of the Gig Harbor Bay, Mt. Rainier and/or Puget Sound;

~~D. That views from adjacent properties will not be adversely affected.~~

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

Section 4. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ___ day of ____, 2008.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Carol A. Morris, City Attorney

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

HALSAN FREY, L.L.C.
REAL ESTATE AND CONSULTING SERVICES

May 25, 2007

RECEIVED
CITY OF GIG HARBOR

MAY 23 2007

COMMUNITY
DEVELOPMENT

Ms. Jennifer Kester, Senior Planner
Planning and Building, Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

**RE: ZONING CODE TEXT AMENDMENT
HEIGHT RESTRICTION AREA**

Dear Ms. Kester:

As you requested, I have provided the proposed new language and revised answers to the questionnaire. This amendment was submitted on September 12, 2005, but I do not know the reference number the City uses. The SEPA checklist doesn't need to be changed so I did not provide a new one.

As we've discussed, this new language keeps the property in the Height Restriction Area, but it adds an exception section to the code allowing for full underlying zone height if certain criteria are met. This will achieve our purpose and prevent the "creep" down the hill you were concerned with. If you need anything else, please call me directly at 307-1922.

We hope this gets moving along to the Planning Commission very soon.

Sincerely,



Carl E. Halsan
Member

c: Mike and Marty Paul

(New Section to be added)

17.62.050 Special Exception

If a property is located within the Height Restriction Area, but is situated such that development of the property to the fullest height allowed by the underlying zoning district would not restrict views from adjacent property, then the height limitations of the Height Restriction Area shall not apply, subject to the following criteria:

- A. The property or area, if developed to the fullest height allowed by the underlying zoning district, would not block, hinder or impair views from other property within the height restriction area, if such other property currently possesses, or could potentially possess a view of Gig Harbor Bay, Mt. Rainer or the Puget Sound Narrows;
- B. The views of Gig Harbor Bay, Mt. Rainer or the Puget Sound Narrows from adjacent properties within the height restriction area will not be adversely affected.

1. **Detailed description and explanation of amendment.**

We are requesting that a new section be added to the Height Restriction Area provisions of the code (17.62.050 GHMC) so that some uniquely situated property would not be limited in height, but would stay in the Height Restriction Area. A portion of the property I am particularly interested in should have never been included, but it was probably easiest to use streets and parcel lines as boundaries, even though a street or parcel line might not be the best dividing line. Unfortunately, the current amendment criteria leave little room for altering the Map, even in obvious situations. After discussions with staff, it was determined that it would be better for such situated property to stay in the Height Restriction Area, but allow it to be developed to the underlying zoning height limit. This provided relief where necessary, but prevents a "creep-down-the-hill" one parcel at a time.

We are working with a large and prominent property in the City that is under-utilized relative to its current zoning and comprehensive plan designation. The property consists of five parcels totaling 4.27 acres that is developed with three, forty-year old single family homes. The property is split-zoned; about half is zoned RB-1 and other half is zoned R-1. If the property were completely devoted to residential uses, 17 homes could be built. If it were developed with a mixture of single family and office uses, it could yield several office buildings and up to 10 single family home sites. The property is under-utilized.

Our plans are to develop the entire site with a first class mixed use project that combines office and residential uses, perhaps even within the same building, in order to create a synergistic project that would serve as an example for others to follow. Ideally, we would develop a single, multi-level structure where office and some limited retail uses would use the ground floor, office uses would be located on the second floor and residential uses would be on the top floor. The balance of the site would be developed with smaller, attached single-family homes.

The property in question is located on the north side of Grandview Street, between Pioneer Way and Stinson Avenue. This area of town contains one of the most prominent points of entry into the downtown area, and is currently developed with a mixture of retail, residential and offices uses of mixed vintage. The most important current use is our Civic Center. Several of the properties are in the process of being redeveloped, and the site we are working with will be an important piece of this puzzle. We believe that our plans for the property, if implemented, will serve as another catalyst for other property owners to redevelop their property. The Civic Center was the beginning, the bank remodel is underway, and the new office building complex at the northeast corner of Pioneer and Grandview is coming soon. The other underutilized property in the area should begin to follow. The low-slung strip centers in the area are in the most need of updating. We want to be part of

this redevelopment process and help set the tone through implementation of our plans.

2. **Change in circumstances pertaining to the Zoning Code text or public policy.**

When the current zoning code text was written for the Height Restriction Area (1996), the stated purpose was to establish standards for those properties located inside the Gig Harbor view basin where decreased building height would limit structure height so as not to restrict views from adjacent properties. This section of the Code also contains amendment language so that properties could be removed from the overlay, if all the stated criteria are met.

Unfortunately, the amendment criteria are written such that certain property can't be removed from the overlay, even if it makes sense to anyone who considers it. For instance, Criterion "B" prevents a property from being removed if it possesses a view, even though the stated intent of the overlay district is to protect views from adjacent property. The proposed new exception language would alleviate this problem by considering view from adjacent property as the primary criteria for limiting height. Criterion "C" prevents a property from being removed if the gradient of the land within 100 feet of the property slopes at five percent or more. The proposed new exception language would alleviate this problem as well. The obvious point being that the height of a structure behind or away from someone else's view has no impact on their view.

We do not want to circumvent the zoning limitation on height where such limitations are necessary for achieving the stated purpose. We only want the property that should logically not be height-limited to be fully developed while the stated purpose of the overlay district is not violated. The zoning text should be amended to accommodate such situations.

3. **Impacts caused by the change, including the geographic area affected and the issues presented.**

There will be no adverse or negative impacts from the changes. We have worked very hard to ensure that the language we've proposed will only allow appropriate properties to have taller structures. If any other language changes are needed to ensure no adverse impacts, we would be in full support of such additional changes. Once again, we have proposed language changes that only allow certain property to build taller structures, and only if it can be shown that no other views will be negatively affected. This is our goal and is the stated goal of the zoning code.

4. **How the amendment complies with the community vision statements, goals, objectives and policies of the Comprehensive Plan.**

The Comprehensive Plan contains no goals, objectives or policies that specifically require view protection. Despite this lack of policy direction, it is obvious that this is an important element of the City vision. Nothing about the proposed language changes can be construed as being inconsistent with the adopted Comprehensive Plan. There is a goal (#1 on page 21) that instructs the City to identify significant views, but there aren't any goals telling us what to do with the areas after they are identified. Goal #2 on page 21 does tell us to preserve corner lots so that more stately buildings can be developed that play such a crucial role in establishing an identity for the city. This is exactly what we have in mind for the property we are working with. We intend on developing a signature type building at the corner that will help make a statement of arrival as one leaves the SR-16 corridor area and begins the descent into the downtown core.

5. **Is there public support for the proposed amendment?**

Based on our canvassing of the community, there will be support. The property in question is at the top of the hill, with no other property behind it having a view of the Bay, the Sound or the Mountain. It is a property that should be developed with a stately structure that can not only define a sense of place in and of itself, but that will assist in the overall redevelopment of the general area. There are several properties in this mixed use node that will be redeveloped over the years, and the subject property can help set the tone and style for the area. This new tone should not be one of more low-slung one story buildings that lack style or grace when the opportunity exists for such a dynamic mixed use node to take hold in the area. We would like to play an important role in this renaissance, but cannot do so with the property being limited by the height restriction area limitations.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
April 3, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Jeane Derebey and Joyce Ninen. Commissioners Theresa Malich, Jill Guernsey and Dick Allen were absent. Staff present: Jennifer Kester, and Stephanie Pawlawski.

CALL TO ORDER: 6:00 p.m.

APPROVAL OF MINUTES

In the minutes from March 6th, 2008 Planning Commissioner Joyce Ninen noted one typo on the last page, at the top second paragraph 5th line, says "is doesn't". It was also pointed out that on the previous page it should be Ms. Malich rather than "she".

MOTION: Move to approve minutes of March 6th, 2008 with the changes. Ninen/Derebey – Motion carried.

It was noted that the Commissioners present had been corrected in the minutes for March 20th, 2008. Ms. Derebey noted that on the 4th page 2nd paragraph the sentence beginning Mr. Dolan said, didn't make sense. It was decided to add the word areas. It was also noted on that on line 5 of the same page it should read original retail rather than retails. In the paragraph above number three where it says Mr. Atkins felt that there should be some mechanism for dealing with neighborhood transition issues it was decided to delete the phrase "when there is a problem".

MOTION: Move to approve the minutes of March 20th, 2008 with the changes mentioned. Pasin/Derebey – motion carried

1. Overview of text amendment to be reviewed during the second quarter of 2008.

Senior Planner Jennifer Kester passed out the new information for this quarter for the Planning Commission binders. She pointed out what was being reviewed and the staff reports for each. She went over each of the amendments and the elements of each.

Mr. Pasin asked if the vegetation amendment would receive some input from the Mayor since that was something that was important to him and asked how they were going to get some input from the DRB. Ms. Kester noted that she had asked the DRB for volunteers and there were some members that were interested and are aware of the schedule and that the meetings will begin in May. She also stated that the Mayor has given some input to staff and she could provide that to the Planning Commission.

Ms. Kester stated that the Quadrant development will be an example of our current standards for everyone to compare. She did note; however, that ordinarily there would need to be trees on the frontage of Borgen but they had found laminated root rot in the trees so they had to be removed and planted with another species. Discussion followed on the Harbor Crossing plat and it's greenbelt with Canterwood. Ms. Kester explained that Canterwood had cleared their own buffer and that is why it appears that there is no buffer. Ms. Derebey noted that there is a huge problem with beetles destroying trees.

Ms. Kester went on to say that new for this quarter is the height restriction area criteria amendment, which we will be having a work session on tonight. She noted that they will also be holding a public hearing on the gross floor area changes on April 17th. Ms. Derebey had a question about the RB-1 changes and if they could be split into two work study sessions. Ms. Kester agreed that it wasn't ready for a hearing but they could plan for an upcoming work study session. She also stated that they will be discussing the area wide rezone from MUD to the Mixed Use zone. Discussion continued on the process for the RB-1 amendments and that some of them may need comprehensive plan amendments as well.

Ms. Kester went on to say that the Planning Commission will have one more meeting before their joint meeting with the City Council on the 21st and that the Design Review Board will have a joint meeting with the City Council on another night. Mr. Pasin noted that the Design Review Board would like to discuss the issue of utilizing the hearing examiner for certain projects. Mr. Atkins stated that he would like to know how the new review process is working. Ms. Ninen asked about the update of the Shoreline Master Program. Ms. Kester said that we are about to begin interviewing consultants and when the consultant is selected they will provide a public participation plan. Ms. Kester explained the process and that the Planning Commission will be making a recommendation to the City Council regarding the Shoreline Master Program. The development of the plan will probably take around a year and a half.

**2. Carl Halsan, Halsan Frey LLC, P.O. Box 1447, Gig Harbor WA 98335 –
ZONE 07-0012 – Height Restriction Area Special Exception**

Ms. Kester stated that this was a private developer proposal to create a new section which would provide a special exception process where someone could apply to be exempt from the provisions of the height restriction area if their development would not affect another properties view. Staff is recommending an alternative amendment to the criteria for removal. She noted that staff has felt that perhaps the criteria is not meeting the chapter but have not had that tested by the Hearing Examiner. Ms. Kester stated that recently the owners of the property where the Shenandoah is stored have asked for a rezone back to R-1 and to be removed from the height restriction area because of the topography. She went on to say that it had gone to hearing and in the criteria it talks about views from the property not views across the property. It was approved by the Hearing Examiner because it met the intent of the chapter.

Ms. Ninen pointed out that the code states that the property itself should have a view rather than dealing with surrounding properties. Ms. Kester said that the applicant had acknowledged that the staff suggestion would work. Mr. Atkins asked why if it is a Type IV application, it went to the Hearing Examiner. Ms. Kester pointed out where it refers you to a Type III application and the table identifies it as a Type III. Planning staff made an interpretation and presented that to the Hearing Examiner. Mr. Atkins expressed that sometimes Hearing Examiners don't really deal well with issues that are subjective, so sometimes these height restriction and view issues are better decided by the City Council.

Ms Kester then went through what the applicant was proposing which was a new exception to the height restriction area. She stated that staff had a concern with just limiting it to properties within the height restriction area as there are properties that have views that are not within the height restriction area. She felt that if they wanted to adopt a special exception it should deal with adjacent properties being impacted rather than just those within the height restriction areas. Mr. Pasin said that if you use a term like adjacent, what happens if you are two lots away. Ms. Kester said we would have to write a definition of what adjacent is. Mr. Pasin asked why we would we want to provide exceptions to the height restriction area and Ms. Derebey agreed. Ms. Ninen said well perhaps that is why staff was suggesting that it be a change to the criteria rather than an exception so that if you are not impacting anyone else's views than perhaps you should be removed. Mr. Atkins agreed. Ms. Kester pointed out which properties were being considered for development that had begun this amendment. Mr. Pasin said that he felt that both properties were examples where they don't necessarily have a view because of the trees and when the trees come down other properties could potentially have a view. Ms. Kester said that whatever criteria we write it will be the burden of the applicant to show that it will not impact other properties views. Mr. Atkins asked what constitutes a view, is it a tiny sliver? Ms. Ninen asked about a possible legal definition of a view and Ms. Kester said she would look into it.

Ms. Kester said that the code does say it has to be a view of Gig Harbor Bay, Puget Sound or the Narrows. Discussion continued on that it should be any amount of a view. Mr. Pasin asked if a view of Gig Harbor Bay mean you need to actually see the body of water and expressed concern with messing with the height restriction area as it has worked pretty well. Ms. Kester stated that she anticipated other people exploring being removed from the height restriction area map since the decision on the Shenandoah property. Mr. Atkins asked for further clarification on the decision. Ms. Kester explained that it didn't restrict views from adjacent properties and met the intent of the comprehensive plan. She talked about the gradient of the land and Mr. Atkins asked why are we worried about the gradient and Ms. Kester said that she and Associate Planner Kristin Moerler had tried to figure it out and she believed it was because of the view potential on sloped land. Mr. Atkins said that he felt that if you say something has potential for a view then perhaps that is enough whether they have a slope or not. She stated that staff felt that Item D was perhaps not really necessary and that Item C was just extra protection. Mr. Atkins said that he felt that the Hearing Examiner was looking for black and white and didn't want to deal with subjectivity. Ms Derebey talked about

what is adjacent properties and what did that mean and suggested that perhaps it should say properties within the line of sight of the subject property. Ms. Kester asked how far the line of sight can go and how would a property owner figure that out. Mr. Atkins said that this particular area defines a right and we are talking about creating a privilege for someone and it is their burden to show that they deserve the privilege. Ms. Kester brought up the issue of what is "potentially possess" a view. What if the current development is one story but if they redevelop and make it two stories, potentially they could have a view. Mr. Pasin brought up the issue of views within the proposed development and possible loss of those views as well. He pointed out that the height restriction area just says that you have to stay within a certain height it doesn't say that you can't block someone's view. Mr. Pasin asked why we would want to let people get out of it. Ms. Ninen said that we are trying to make the criteria be in line with the intent and what Ms. Kester has written really strengthens the criteria. Ms. Ninen asked how the city would handle notifying the property owners within the line of sight. Ms. Kester said that was a good point because we would have to figure out how we could map that. Ms. Ninen said that line of sight was a good concept but would be difficult to manage. Ms. Kester said that this was something to think about since a number would just be arbitrary.

Mr. Pasin asked why we use the word area in Item B and Ms. Kester said that could be changed to say property. Ms. Kester then asked what the right gradient of slope was for Item C. Mr. Pasin said that he thought that it should remain at 5% and Mr. Atkins agreed. Mr. Atkins then brought up the exclusions and Ms. Kester explained through an illustration. He then asked if the phrase subject site should be changed to property requesting to be removed from height restriction area. Ms. Derebey agreed that subject site could be confusing. Ms. Kester agreed to check on that. Ms. Derebey asked why can't we say 5% or greater in a downhill slope? Mr. Pasin gave an example of a piece of property at the bottom of Soundview that if you were over by the Harbor Inn looking uphill you would be able to see Mt. Rainier across that piece of property at the bottom of Soundview. Ms. Kester said that in that case there is a grade change of at least 5%. Mr. Pasin said that he was still concerned with views within a parcel that is removed from the height restriction area. Ms. Kester said that she did see one loop hole within the language is that if there was an entire group of homeowners like Spinnaker Ridge and they all applied for every single one of their properties to be removed you get a large chunk of area removed from the height restriction area that might affect other properties and that might be where Item C would come into play. Ms. Kester verified that they don't really like the idea of an exception but rather to amend the map. Ms. Kester verified that with these changes they would be ready to go to hearing on this proposal. Mr. Atkins asked if they wanted to change the intent statement. Ms. Ninen asked if the height restriction area was going to be looked at during the view basin segment of the neighborhood design areas. Ms. Kester said that it may result in changes to the map. Ms. Kester also noted that there are no criteria for what to do to be included in the height restriction area. Ms. Derebey asked if it should say that the intent is not to restrict views or potential views. Ms. Ninen stated that she thought that it was a good place to put that statement. Discussion followed on some of the areas pending annexation that may need to be included in the height restriction area. Ms.

Kester said that she was not sure that it was necessary to say potential views. Ms. Derebey said that there are areas that are not in the view basin that may have a view.

Ms. Kester said that she would contact the applicant to see if he was willing to hold a hearing on the staff proposal rather than on both proposals. Ms. Kester said the next meeting will be a public hearing on this item.

3. Identification of any key areas of change to the land use map the Planning Commission wants to work on in this year's cycle.

Ms. Kester stated that the 3rd quarter is for the comprehensive plan amendments and explained the process. She noted that the council will be deciding which of the proposed comp plan amendments are worthy of taking forward. Mr. Atkins said that he had found three areas that he identified as needing change. Ms. Kester said that if they want to put something forward for change she needs to know which areas. Mr. Atkins said that the three areas he had were the Soundview area where it's residential medium and there is a lot of single family residential zoning, and further down Soundview there is an area that is residential low and the zoning is R-2. Ms. Kester stated that there are a couple of things to remember is that all land use map changes have to go through concurrency review and we have no sewer and some areas have traffic issues and she is not sure how it will work when we are doing an up designation in one area and down designating in another area. Mr. Atkins stated that he was worried about how this would affect buildable lands and Ms. Kester said the changes to a lower designation wouldn't necessarily affect buildable lands. In the area where we would be up designating it would create more housing capacity through buildable lands, what may be a concern of the council would be that if it's residential medium someone may want to rezone to RB-2. Ms. Kester explained how concurrency works in relation to zoning. Mr. Atkins asked isn't concurrency based on zoning rather than land use and Ms. Kester that yes, but in the case of up designating it may allow a more intense zone and the council is trying to pay more attention to land use designations to assure that the city has the infrastructure to handle the land use designation. Mr. Pasin asked about the mixed use area that they had discussed and would there need to be a change to the land use map and Ms. Kester did not believe that there would need to be a change to the land use map in order to implement the new MX zone. Mr. Pasin asked about a particular area within the Mixed Use Overlay and Ms. Kester displayed the map and clarified where the land use designations are located.

Ms. Derebey thought they should recommend to the council that they discuss the three areas along Soundview. Everyone agreed and Ms. Kester clarified that they wanted to recommend discussion but not necessarily action at this time.

**4. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 –
ZONE 08-0003 – Appropriateness of RB-1 zoning district locations and
allowed uses in the RB-1 zone.**

Mr. Atkins asked that everyone submit their thoughts on the RB-1 issue. Ms. Kester said that at the next meeting there will be three public hearings and hopefully at the end of the hearing we could get a recommendation to the City Council. She noted that the hearing starts at 7:00 and asked did they want to have another item during the work study session at 6:00. They agreed that they would discuss the upcoming meeting with the City Council and the RB-1 issue during the 6:00 work study session.

Ms. Ninen shared information she learned from an on-line class she took on the role of a Planning Commissioner. Ms. Kester stated that the city does have a budget for some of these classes if anyone else is interested. She distributed information on an upcoming Short Course on Planning being offered by Bonney Lake. Ms. Derebey asked about a possible lecture on Buildable Lands and Ms. Kester said she had spoken with Dan Cardwell from Pierce County and he had agreed that he could come talk to the Commission. Discussion continued on buildable lands and how they are calculated.

ADJOURNMENT

MOTION: Move to adjourn at 8:45 p.m. Derebey/Atkins – motion carried.

Draft

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
April 17th
Gig Harbor Civic Center**

Present: Commissioners Jim Pasin, Harris Atkins, Jeane Derebey, Dick Allen, Theresa Malich, Jill Guernsey Joyce Ninen and Jeane Derebey.

Staff Present: Tom Dolan, Jennifer Kester and Cindy Andrews

CALL TO ORDER: – 6:05 pm

APPROVAL OF MINUTES:

MOTION: Move to table the minutes from April 3rd, 2008 until the next meeting.
Atkins / Ninen – Motion passed unanimously

NEW BUSINESS:

1. **Discussion of the agenda for the Planning Commission's meeting with the City Council on April 21st, 2008 –**

Senior Planner Jennifer Kester summarized the upcoming April 21st meeting with City Council discussing the new re-appointment policy and the Vision and Charter work program. Ms. Derebey asked if council had seen everything that the board had completed. Ms. Kester replied no, Mr. Dolan added that council had approved the work program. Board members discussed the reappointment policy, the new DRB process, annexations and the Shoreline Master Plan Update. Mr. Dolan encouraged board members to bring their comments to the April 21st meeting.

2. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335 -**
ZONE 08-0003 – Appropriateness of RB-1 zoning district locations and allowed uses in the RB-1 zone.

Ms. Kester asked board members if they would like to discuss item #2 tonight noting that the last time the item had been discussed had been on March 20th. Board members agreed to postpone the item.

MOTION: Move to postpone until the next meeting Zone 08-0003. Derebey / Ninen – Motion passed unanimously.

Recess at 6:45

7:00 – PUBLIC HEARING

1. **City of Gig Harbor, 3510 Grandview St, Gig Harbor, WA 98335 –**
Zone 07-0006- Mixed Use District Overlay (MUD) Amendments and Area-Wide Rezone.

Ms. Kester discussed the proposal to remove the mixed use district overlay and add the new MX Zone explaining the intent to harmonize the R-1 and the RB-2 zones.

Ms. Kester continued to explain the changes pointing out that property owners would not see a reduction in the zoning of their property however they would see a change in the density in the RB2- zone, also no requirements for parcel size developments and buffer requirements would be carried over.

Chair Theresa Malich opened the hearing up for public comments.

Mark Shoenes– 2002 Sullivan Dr, Gig Harbor, WA 98335. Mr. Shoenes asked for the reason in the reduction of the density in the RB-2 zone. Ms. Kester explained by removing the process for allowing the density to expand to 12 units per acre in the new MX zone_it would harmonize the R-1 and RB-2 zones, noting that the MX zone would still allow density of 8 units per acre

Tom Metzdorf -15604 Sunny Cove Dr, Olalla, WA. Mr. Metzdorf currently owns property along Burnham Dr. asked to confirm that the property would remain commercial for development purposes. Ms. Kester replied yes however light industrial would require a Conditional Use Permit.

Ms. Malich closed the public hearing on Item #1 at 7:15 pm

2. Carl Halsan, Halsan Frey LLC, P.O. Box 1447, Gig Harbor, WA 98335 –
Zone 07 -0012 Height Restriction Area Special Exception

Ms. Kester introduced applicant Carl Halsan.

Mr. Halsan summarized his proposed text amendment explaining the intent to make the process clearer for properties owners that would like to remove their property from the Height Restriction Area explaining the difficulties imposed by the current criteria.

Ms. Kester explained the concern of the Planning Commissions members for protecting views of property that would not be in the Height Restriction Area. Ms. Kester explained the Planning Commission's proposed changes to the intent statement and the criteria for removal from the Height Restriction area. Board members further discussed their proposed changes to the criteria specifically the reference to the Gig Harbor view basin and the Soundview neighborhoods, the removal of the term adjacent and other properties as well as stating that current and potential views should refer to all properties. Mr. Halsan agreed to the changes. Ms. Kester explained the proposed change to the permit type_to a type III permit to insure that property owners would be notified and a public hearing would be held.

Ms. Malich closed the public hearing at 7:28.

3. City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335 –
Zone 07-0008 – Gross Floor Area Definition Amendment.

Ms. Kester summarized Zone 07-0008 pointing out the most notable change would be the removal of the underground floor area as part of the calculation of the gross floor area. Ms. Kester also discussed additional changes to the amendment including defining attic space and removing garage space as part of the calculation for off street parking. Ms Kester further explained why the Planning Commission is not proposing the change to the gross floor area definition apply to the waterfront zones given the higher utilization of the land for waterfront properties.

Ms. Malich closed the public hearing at 7:34 pm.

MOTION: Move that the Planning Commission recommend adoption of the amendments to the gross floor area, underground floor area and attic area covered in the staff report dated April 17th, 2008 also including a reference to the language contained in the January 17th, memo from the Planning Commission Chair to City Council and that the second version of the definitions for underground floor area be used. Also that the motion be based on the discussion contained in the January 17th memo to city council which includes more language on shoreline master program update. Atkins / Derebey – motion passed as amended – Mr. Pasin abstained.

Mr. Dolan discussed the reasons that the upland areas would be treated differently than the shoreline areas. Ms. Kester asked if it would be alright if she added additional language referencing the SMP update. Ms. Malich agreed. Ms. Kester suggested using the memo signed by Ms. Malich to clarify the reason why waterfront zones were not included in the gross floor area definition change.

Height Restriction Comments: Item 2

Board members discussed the definition of views, views of Gig Harbor Bay, of the Narrows, across the bay, the inner harbor and territorial views. Ms. Kester discussed what views would be considered the most important. Ms. Malich pointed out that most homeowners would have a territorial view. Mr. Atkins asked if there would be a way to define their view. Ms. Kester suggested it could be mapped to include water, mountain, ridge line, and view over water and territorial. Ms. Ninen noted that homeowners have a financial impact associated with their view and that they should have some protection. Mr. Pasin pointed out that the importance in the description of views.

MOTION: To adopt the staff's recommendation for height restriction area criteria as presented with the change to page 5 reference to the Narrows be changed to refer to Puget Sound.

Ninen / Derebey – Motion passed unanimously

Mixed Use Overlay Comments: Item #1

Ms. Kester discussed the proposed MX zone explaining that there would be no requirement to develop as a mixed use. Commission members discussed development options, uses, density, incentives and projects currently vested. The Commission members reviewed the letter provided by Courtney Kaylor of McCollough Hill PS expressing concerns with the reduction of density for the property she represents, the RV Resort. The Commission directed staff to prepare an Option C, which would rezone only those portions of the mixed use overlay north of the Northharbor Business Campus to the new MX zone and would remove the overlay from those south of the same point. Furthermore, the Commission requested staff develop incentive-based performance standards for the MX zone for Option C which would require a percentage of mixed use development on any given site. Board members agreed to continue the discussion at a later date. Ms. Kester agreed.

Mr. Dolan discussed staff schedules the possible cancelation of the May 1st meeting and potential addition of a special meeting in July.

MOTION: Move to adjourn. Atkins / Ninen

Draft



Subject: Public Hearing and First Reading of Ordinance - PRD and PUD amendments (ZONE 07-0020).

Proposed Council Action: Review ordinance and approve at second reading.

Dept. Origin: Planning

Prepared by: Jennifer Kester
Senior Planner

For Agenda of: May 27, 2008

Exhibits: Draft Ordinance

Initial & Date

Concurred by Mayor:

CLH 5/14

Approved by City Administrator:

RJK 5/14

Approved as to form by City Atty:

CAM 5/19/08

Approved by Finance Director:

Approved by Department Head:

TD 5/15/08

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION / BACKGROUND

Attached for the Council's consideration are proposed amendments to the Planned Residential Development (PRD) and Planned Unit Development (PUD) chapters. If adopted the amendments would:

- 1) Clarify that the PRD density bonus provisions must be utilized in order to increase density in a PRD and that PUD floor area bonus provisions must be utilized in order to increase gross floor area in a PUD.
- 2) Clarify the types of uses allowed in a PRD.
- 3) Clarify where in a PRD and PUD open space must be located and who shall maintain the open space.
- 4) Clarify the need for a rezone application when the applicant seeks to change the use from the underlying zone in a PRD and PUD.
- 5) Add procedures for amending the City's official zoning map to designate approved PRDs and PUDs.
- 6) Remove unnecessary and inaccurate references to PRDs and PUDs in the zoning code.

POLICY CONSIDERATIONS

Zoning text amendments are addressed in Chapter 17.100 of the Gig Harbor Municipal Code. There are no criteria for approval of a zoning text amendment, but the Council should generally consider whether the proposed amendment furthers the public health, safety and welfare, and whether the proposed amendment is consistent with the Gig Harbor Municipal

Code, the Comprehensive Plan and the Growth Management Act (chapter 36.70A RCW). Zoning text amendments are considered a Type V legislative action (GHMC 19.01.003).

ENVIRONMENTAL ANALYSIS

The City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on April 2, 2008

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

The proposed amendment was brought before the Planning and Building Committee of the Council who recommended that the amendment be considered directly by the full City Council rather than request a Planning Commission recommendation.

RECOMMENDATION / MOTION

Move to: Staff recommends Council review the ordinance and approve at second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE PROCEDURES FOR PLANNED RESIDENTIAL DEVELOPMENTS (PRD) AND PLANNED UNIT DEVELOPMENTS (PUD) TO CLARIFY THAT PRD DENSITY BONUS PROVISIONS MUST BE UTILIZED IN ORDER TO INCREASE DENSITY IN A PRD AND THAT PUD FLOOR AREA BONUS PROVISIONS MUST BE UTILIZED IN ORDER TO INCREASE GROSS FLOOR AREA IN A PUD; ADDING CLARIFICATION TO THE TYPES OF USES ALLOWED IN A PRD; CLARIFYING FACTORS THAT MUST BE ELIMINATED FROM THE CALCULATION OF OPEN SPACE IN A PRD AND PUD; CLARIFYING WHERE IN A PRD AND PUD OPEN SPACE MAY BE LOCATED; CLARIFYING THE NEED FOR A REZONE APPLICATION WHEN THE APPLICANT SEEKS TO CHANGE THE USE FROM THE UNDERLYING ZONE IN A PRD AND PUD; ADDING PROCEDURES FOR AMENDMENT OF THE CITY'S OFFICIAL ZONING MAP TO DESIGNATE APPROVED PRD'S AND PUD'S; REMOVING THE REFERENCES TO PRD ALLOWED DENSITIES IN THE ZONING DISTRICT CHAPTERS, AND; CORRECTING REFERENCES TO PRD'S IN THE PUD CHAPTER; AMENDING GIG HARBOR MUNICIPAL CODE SECTIONS 17.89.050, 17.89.070, 17.89.100, 17.89.110, 17.90.030, 17.90.070, 17.90.080, 17.90.090, 17.20.040, 17.24.050, 17.46.040 AND 17.48.040; ADDING NEW SECTIONS 17.89.130 AND 17.90.130.

WHEREAS, planned residential developments (PRD) and planned unit developments (PUD) constitute rezones, or "floating zones" which, when approved, are amendments to the zoning district by reclassifying the property to a PRD or PUD designation; and

WHEREAS, the procedures in GHMC Section 17.89.100 for a PRD allow the density to be increased in a PRD under certain circumstances; and

WHEREAS, although the language in GHMC Section 17.89.100 specifically restricts use of density bonus provisions to the circumstances set forth in GHMC 17.89.100(A)(1) and (2), at least one developer interpreted this language to mean that it did not apply if the underlying zone allowed an increase in density through a different procedures; and

WHEREAS, the council desires to confirm existing law regarding the establishment of PRD's and PUD's as rezones, given that any development approved through the PRD or PUD process does not conform to the development standards in the underlying zone; and

WHEREAS, the Council desires to clarify that the procedures applicable to a particular zoning classification apply to development conforming to that zoning classification, and not to development approved under a PRD or a PUD; and

WHEREAS, the Council desires to clarify that the density bonus provisions of GHMC Section 17.89.100 apply regardless of any other procedures in the underlying zone for increasing density; and

WHEREAS, the Council desires to clarify what factors must be eliminated from the calculation of open space in a PRD and a PUD; and

WHEREAS, the Council desires to clarify where in a PUD and PUD open space may be located and whom shall maintain the required open space; and

WHEREAS, to prevent any future confusions, misinterpretations, or lawsuits regarding interpretation of the PUD procedures, the Council desires to clarify that the maximum gross floor area bonus provision in GHMC Section 17.90.090 applies regardless of any other procedures in the underlying zone for increasing floor area, including the procedure for a variance; and

WHEREAS, the fact that PUD's and PRD's are rezones is further clarified by the addition of new provisions requiring amendment of the City's Official Zoning Map after approval of a final PUD and final PRD; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on April 2, 2008; and

WHEREAS, the City Community Development Director forwarded a copy of this Ordinance to the Washington State Department of Trade and Community Development on October 9, 2007, pursuant to RCW 36.70A.106; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting of _____ 200_ ; Now, Therefore,

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

Section 1. Section 17.89.050 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.89.050 Types of uses permitted.

The following uses are permitted in a PRD:

A. Those primary, accessory and conditional uses permitted in the underlying zoning district. Density is not a use, and the fact that a conditional use permit may allow additional density in a particular zone does not apply to a PRD, in which density may only be increased through the procedures set forth in GHMC Section 17.89.100.

* * *

Section 2. Section 17.89.070 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.89.070 Criteria for approval of preliminary PRD application.

* * *

~~C. If the PRD requires a rezone(s), such rezone(s) shall be approved before or concurrently with the PRD approval.~~ If the PRD applicant seeks to change the use from that allowed in the underlying zone, a separate application for a rezone shall be submitted to be processed concurrent with the PRD application, but the rezone must be approved in order for the PRD to be approved.

Section 3. Section 17.89.100 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.89.100 Density bonus.

A. The density may be increased in a PRD, as set forth in subsection B, over that permitted in the underlying zone but only if: only under the following circumstances: (1) the increase must be consistent with the underlying comprehensive plan designation for the property; and (2) the density increase will must not exceed 30 percent over the smallest amount of density allowed outright in the underlying zone. If, in any underlying zoning classification, a larger amount of density is allowed or there is a procedure allowing density to be increased, neither shall apply in a PRD. The procedure in this Section constitutes the exclusive method to increase density in a PRD. A variance from the density in a PRD (whether such variance would constitute an increase or decrease in the density) shall not be allowed. Density calculations shall be made as set forth in Chapter 17.05 GHMC.

B. Density bonuses may be allowed only as follows:

1. A 10 percent increase in density towards the 30 percent maximum increase for the following additional open space. a. In addition to the satisfaction of the standards in GHMC Section 17.89.110 for open space; and b., the PRD shall demonstrate the provision of open space exceeding by at least 30 percent of the minimum required by the Design

~~review Manual or the existing zoning code (whichever is greater); or after December 31st, 2009, at least 30 percent more open space than the level of service standards for open space and active recreational areas in the capital facilities element of the adopted Gig Harbor comprehensive plan: 40 percent increase~~ Common open space associated with density bonus must be freely accessible to the general public, identified on the face of the plat, and clearly identified by on-site signage;

2. A 10 percent increase in density towards the 30 percent maximum increase for the preservation of natural features. Preservation of a desirable natural feature that would not otherwise be preserved such as, but not limited to, an unregulated wetland, stream corridor, unique geological feature, substantial over story vegetation: ~~40 percent increase;~~

3. A 10 percent increase in density towards the 30 percent maximum increase for the preservation of scenic vistas. Preservation of a scenic vista corridor(s) within the subject property and off-site and accessible to the general public rather than private property owners: ~~40 percent increase;~~

4. A 10 percent increase in density towards the 30 percent maximum increase for design of a stormwater treatment system as an amenity. A stormwater treatment (retention/detention) facility is also designed as a visual aesthetic and physically accessible amenity for the enjoyment of the public: ~~40 percent increase;~~

Section 4. Section 17.89.110 of the Gig Harbor Municipal Code is amended to read as follows:

17.89.110 Open Space.

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

A. Common open space shall comprise at least thirty percent (30%) of the gross area of the PRD, and shall be used as a recreational, park or environmental amenity for collective enjoyment by ~~occupants of the development~~ the property owners within the PRD. Common open space shall not include public or private streets, driveways, parking areas, or the ~~required setbacks, required perimeter setbacks, or required yards for buildings or structures. provided however, that up to thirty (30) percent of the required open space may be composed of open space on contiguous privately owned properties reserved by easement or covenant to assure that the open space will be permanent.~~ A minimum of seventy percent (70%) of the required common open space shall be located on separate open space tracts shown on the face of the plat. A maximum of thirty percent (30%) of the required common open space may be comprised of open space on contiguous residential lots within the PRD. The face of the PRD and the Covenants, Conditions and Restrictions shall include designation of these required common open space areas as open space, as well as the requirements for the property owners within the PRD to

maintain such open space, unless arrangements are made pursuant to GHMC 17.89.110(G)(2).

* * *

Section 5. A new section 17.89.130 is hereby added to the Gig Harbor Municipal Code to read as follows:

17.89.130. Recording by amendment to Official Zoning Map.

All changes of the district boundaries (from the underlying zoning classification to PRD) shall be made concurrent with the decision approving the final PRD. An ordinance shall be prepared and submitted to the City Council for approval, which will direct the Planning Director to make the necessary changes to the City's Official Zoning Map and to file the same with the City Clerk.

Section 6. Section 17.90.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.90.030 Permit application procedures.

* * *

F. Extensions. Knowledge of the expiration date and initiation of a request for an extension of time is the responsibility of the applicant. Requests for an extension of time must be submitted to the planning department at least 30 days prior to the expiration of ~~PRD~~ PUD approval. The planning department shall schedule the request for extension for public hearing before the hearing examiner. One extension is the maximum to be granted and it shall be for no more than one year and the ~~PRD~~ PUD may be subject to any new or amended regulations, requirements, policies or standards which are adopted after the original date of approval, unless 50 percent or more of the on-site work has been completed.

Section 7. Section 17.90.070 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.90.070 Criteria for approval of preliminary PUD application.

* * *

C. If the PUD requires a rezone(s), such rezone(s) shall be approved before any action is taken on the preliminary PUD application. If the PUD applicant seeks to change the use from that allowed in the underlying

zone, a separate application for a rezone shall be submitted to be processed concurrent with the PUD application, but the rezone must be approved in order for the PUD to be approved.

Section 8. Section 17.90.080 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.90.080 Criteria for approval of final PUD application.

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

1. All features and amenities approved in the preliminary PUD have been constructed, or a bond has been posted for such construction;
2. The city public works director has documented that all conditions imposed on the preliminary PUD requiring public works department approval have been constructed to the satisfaction of the director;
3. The city fire marshal has documented that all conditions imposed on the preliminary ~~PRD~~ PUD requiring fire code approval have been constructed (or per the fire marshal's discretion will be constructed pursuant to a subsequent permit) to the satisfaction of the fire marshal;
4. The city planning director has documented that all conditions imposed on the preliminary PUD requiring planning department approval have been constructed to the satisfaction of the director;
5. Findings must be made that the preliminary PUD (and/or preliminary plat or binding site plan) conforms to all terms of preliminary PUD approval, that the PUD meets the requirements of this chapter and all other applicable codes and state laws.

* * *

Section 9. Section 17.90.090 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.90.090 Maximum gross floor area bonus.

A. The maximum gross floor area of a PUD may be increased, as set forth in subsection C, over that permitted in the underlying zone only under the following circumstances: (A) the increase must be consistent with the underlying comprehensive plan designation for the property; and (B) the increase will must not exceed 25 percent additional gross floor area over the smallest gross floor area allowed outright in the underlying zone, ~~except in the general business district (B-2) it shall be up to 50 percent, except that in the Olympic Village Activity Center and the Westside general business (B-2) district no increase in gross floor area shall be allowed, and in the commercial district (C-1) it shall be 30 percent.~~ If, in any underlying zoning classification, a larger gross floor area is allowed or there is a procedure allowing the gross floor area to be increased, none shall apply in a PUD. The procedure in this Section

constitutes the exclusive method to increase the gross floor area in a PUD. No variances from the gross floor area (whether such variance would constitute an increase or decrease in gross floor area) shall be allowed in a PUD. Such All gross floor area calculations shall be based on net buildable land. The maximum gross floor area bonus may only be allowed if the applicant demonstrates the following:

B. Exceptions to Subsection A above are: (1) in the general business district (B-2) the increase may be up to 50 percent, except that in the Olympic Village Activity Center and the Westside general business (B-2) district no increase in gross floor area shall be allowed; and (2) in the commercial district (C-1) the increase may be 30 percent.

C. In addition to the above, the maximum gross floor area bonus may only be allowed if the applicant demonstrates the following:

A. 1. A 10 percent increase in gross floor area for the following additional open space. Open space must satisfy the standards in GHMC 17.90.100 for open space in order to be eligible for a density bonus. Such open space must be open to the general public. 4. In addition, the provision of open space must exceeding by at least 30 percent the minimum required under the Design review Manual and be proportional to the size of the development: 10 percent increase.

2. A 10 percent increase in gross floor area for the preservation of natural features. Preservation of a desirable The natural feature shall be a desirable feature that would not otherwise be preserved such as, but not limited to, an unregulated wetland, stream corridor, unique geological feature, substantial over story vegetation and which would not otherwise be preserved, etc.: 10 percent increase.

3. A 10 percent increase in gross floor area for the preservation of scenic vistas. Preservation of scenic vista corridor(s) on-site and off-site and accessible to the general public: 10 percent increase.

4. A 10 percent increase in gross floor area for the provision of a desirable urban amenity. Provision of an The urban amenity shall that complements the proposed development and that exceeds three requirements of the Design review Manual for common space or plazas. Such amenity may include such things as play area, public transit amenities, public restrooms, fountains or other comparable amenities identified by the applicant or city staff: 10 percent increase.

5. A 10 percent increase in gross floor area for the design of a stormwater treatment system as an amenity. A stormwater treatment (retention/detention) facility that is also shall be designed as a visually aesthetic and physically accessible amenity for the enjoyment of the public: 10 percent increase.

Section 10. Section 17.90.100 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.90.100 Open Space.

In order to qualify for a height or gross floor area bonus/increase, the applicant must demonstrate that all of the following open space performance standards have been satisfied:

A. Common open space shall not include public streets, private streets, driveways, parking areas, required setbacks, required perimeter setbacks, or the required yards for buildings or structures; ~~provided however, that up to 30 percent of the open space may be composed of open space on contiguous privately owned properties reserved by easement or covenant to assure that the open space will be permanent.~~ A minimum of seventy percent (70%) of the required common open space shall be located on separate open space tracts shown on the face of the plat. A maximum of thirty percent (30%) of the required common open space may be comprised of open space on contiguous lots within the PUD. The face of the PUD and the Covenants, Conditions and Restrictions shall include designation of these required common open space areas as open space, as well as the requirements for the property owners within the PUD to maintain such open space, unless arrangements are made pursuant to GHMC 17.90.100(G)(2).

* * *

Section 11. A new Section 17.90.130 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

17.90.130. Recording by amendment to Official Zoning Map.

All changes of the district boundaries (from the underlying zoning classification to PUD) shall be made concurrent with the decision approving the final PUD. An ordinance shall be prepared and submitted to the City Council for approval, which will direct the Planning Director to make the necessary changes to the City's Official Zoning Map and to file the same with the City Clerk.

Section 12. Section 17.24.050 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.24.050 Development standards.

In an R-3 district, the minimum lot requirements are as follows:

Single-family	Other residential
and duplex	and
dwellings	nonresidential

A. Minimum lot area for 5,400 sq. ft./dwelling unit

short plats¹

B. Minimum lot width ¹	50'	50'
C. Minimum front yard ²	House: 20'	20'
	Porch: 12'	
	Garage: 26'	
D. Minimum side yard ^{4 3}	8'	7'
E. Minimum rear yard ^{4 3}	30'	25'
F. Maximum site coverage	60% of the total lot area	
G. Maximum density ³	8 dwelling units/acre	

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

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

³~~A maximum density of up to 10.4 dwelling units per acre may be permitted within a planned residential development, pursuant to Chapter 17.89 GHMC.~~

^{4 3} Garages accessory to single-family and duplex dwellings may be located in the defined side and rear yards, provided they conform to the criteria in GHMC 17.99.490(A)(1).

Section 13. Section 17.46.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.46.040 Development standards.

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

	Single-Family Dwelling	Duplex Dwelling	Non-residential Dwelling
A. Minimum lot area (sq. ft.) ¹	7,000	14,000	12,000
B. Minimum lot width	70'	50'	50'
C. Minimum front yard ²			
D. Minimum side yard ²			
E. Minimum rear yard ²			
F. Minimum yard abutting tidelands	0'	0'	0'
G. Maximum site impervious coverage	40%	45%	50%
H. Density ³	4 dwelling units per acre		
I. Maximum gross floor area including garages, attached and detached ^{4 3}	4,000 square feet per lot	4,000 square feet per lot	4,000 square feet per lot

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

²The setbacks of GHMC 17.99.310 and 17.99.320 are applicable in the WR district.

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

~~⁴Historic net sheds as defined in 17.04.615 shall be excluded from the maximum gross floor area requirements above.~~

Section 14. Section 17.48.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.48.040 Development standards.

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

	Single-Family Dwelling	Attached Up to 4 Units	Nonresidential
A. Minimum lot area (sq. ft.) ¹	6,000	6,000/unit	15,000
B. Minimum lot width	50'	100'	100'
C. Minimum front yard ²			
D. Minimum side yard ²			
E. Minimum rear yard ²			
F. Minimum yard abutting tidelands	0'	0'	0'
G. Maximum site impervious coverage	50%	55%	70%
H. Density ³	4 dwelling units per acre		
I. Maximum gross floor area including garages, attached and detached ⁴	3,500 square feet per lot	3,500 square feet per lot	3,500 square feet per lot
J. Separation between structures	20'	20'	20'

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

²The setbacks of GHMC 17.99.310 and 17.99.320 are applicable in the WM district.

~~³Density bonus of up to 30 percent may be granted subject to the requirements of Chapter 17.89 GHMC, Planned Residential Development Zone (PRD).~~

~~⁴Historic net sheds as defined in 17.04.615 shall be excluded from the maximum gross floor area requirements above.~~

Section 15. 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 16. 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 _____, 200_.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
CAROL A. MORRIS

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



Subject: Public Hearing and First Reading of Ordinance - Nonconforming use and structures amendment (ZONE 08-0001)

Dept. Origin: Planning

Prepared by: Jennifer Kester
Senior Planner

Proposed Council Action: Review ordinance and approve at second reading.

For Agenda of: May 27, 2008

Exhibits: Draft Ordinance; Planning Commission Minutes

Initial & Date

Concurred by Mayor:

CLH 5/14

Approved by City Administrator:

ROK 5/14

Approved as to form by City Atty:

CAM 5/13/08

Approved by Finance Director:

N/A

Approved by Department Head:

TD 5/15/08

Expenditure	Amount	Appropriation
Required	Budgeted	Required
0	0	0

INFORMATION / BACKGROUND

Attached for the Council's consideration are proposed amendments to the Nonconformities Chapter (GHMC 17.68):

- 1) Allow the reconstruction of accidentally destroyed nonconforming uses and structures in all zones to the same of smaller dimensions, as long as such reconstruction occurs within one year of destruction.
- 2) Limit intentional changes (remodels) to nonconforming structures those changes valued at less than 50% of the replacement value of the structure. Changes which would exceed 50% of the replacement value, such a demolition to the foundation, would result in the structure needing to be brought into conformity with the existing code or be removed.
- 3) Require a permit for review of nonconforming use and structure changes to allow the City to track changes to nonconformities.
- 4) Reorganize the Chapter for better implementation.

On February 11th, 2008, the City Council passed an ordinance (ORD. 1122) which allows nonconforming residential uses in the R-2 zone to rebuild if destroyed by an act of nature, such as a fire. In addition, the ordinance allows the reconstruction of a nonconforming structure in the case of destruction by an act of nature. The City Council acknowledged that the issues of nonconforming residential uses must be addressed in all zones, not just R-2 and thereby directed Planning Commission to review the Nonconformities Chapter and suggest changes. Ordinance 1122 requests the Planning Commission's recommendation by July 1, 2008.

The Planning Commission held work study sessions on this text amendment on January 3rd, January 17th, February 21st, March 6th, and March 20th 2008. A public hearing before the Planning Commission was held on March 6th, 2008. One member of the public testified at the public hearing. He requested clarification of the remodel allowance in the proposed chapter changes. At the March 20th work study session, the Planning Commission voted unanimously to recommend approval of the text amendment. Copies of the minutes for the Planning Commission meetings which these amendments were discussed are attached.

POLICY CONSIDERATIONS

Zoning text amendments are addressed in Chapter 17.100 of the Gig Harbor Municipal Code. There are no criteria for approval of a zoning text amendment, but the Council should generally consider whether the proposed amendment furthers the public health, safety and welfare, and whether the proposed amendment is consistent with the Gig Harbor Municipal Code, the Comprehensive Plan and the Growth Management Act (chapter 36.70A RCW). Zoning text amendments are considered a Type V legislative action (GHMC 19.01.003).

GHMC 17.68 Nonconformities

Chapter 17.68 GHMC regulates those uses and structures that do not conform to the existing standards of the zoning code.

From GHMC 17.68.010, the intent of the zone:

A. Within the zoning districts established by this title or any amendment that may later be adopted, there may exist lots, structures, uses of land and structures, and characteristics of use that were lawful before the effective date of the applicable regulations, but that would be prohibited, regulated, or restricted under the terms of GHMC Title 17 or a future amendment thereof. This chapter is intended to permit these nonconformities to continue until they are removed but not to encourage their perpetuation. It is further intended that nonconformities shall not be enlarged upon, expanded, extended or be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

B. Because nonconformities do not conform to the requirements of the regulations within their zoning districts, they are declared by this chapter to be incompatible with the permitted uses in the districts involved. A nonconforming use of land in combination shall not be extended or enlarged after passage of the ordinance codified in this chapter by the addition of other uses. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building for which application for a building permit was made prior to the effective date of the adoption or an amendment of the ordinance codified in this title.

Staff/Planning Commission Analysis:

The following is a synopsis of the issues discussed and reviewed by the Planning Commission:

The Planning Commission first discussed the issue of nonconforming uses. Should nonconforming uses be allowed to rebuild in the case of destruction by acts of nature? If yes, should both nonconforming residential and commercial uses be allowed to rebuild or only residential uses? After much discussion, the Planning Commission decided that all uses should be allowed to rebuild in the case of destruction by acts of nature.

The Planning Commission next discussed what limitations, if any, should be placed on the rebuilding of a nonconforming use that was destroyed by an act of nature. It was agreed that a one year time limit was appropriate for the rebuild process. While all new construction must meet current building and fire codes, the Planning Commission also decided that to the maximum extent possible, the rebuilding of the nonconforming use should comply with all municipal codes including, but not limited to:

1. The performance standards in the zoning code, such as setback, coverage and building height
2. Landscape standards, GHMC 17.78
3. Parking standards, GHMC 17.72
4. Design Manual, GHMC 17.98
5. Critical Areas regulations, GHMC 18.08
6. Sign code, GHMC 17.80
7. Flood Hazard Construction Standards, GHMC 18.10
8. Public works standards.

The Planning Director would decide if a proposed rebuild has met these codes to the maximum extent possible. Requiring compliance with as many codes as possible is consistent with the intent of the Chapter to no perpetuate nonconforming structures.

They also discussed if similar rebuild limitations should be put on nonconforming structures that were destroyed by an act of nature. It was decided that similar limitations should be placed on the rebuilding of nonconforming structures in such situations.

Finally, the Planning Commission discussed if the City should allow the intentional alteration of a nonconforming structure, such as in the case of a remodel. The Planning Commission felt that some allowance should be provided for remodels. The proposal limits the alteration to no more than 50% of the replacement value over the lifetime of the structure. Any alteration exceeding 50% of the replacement value either at one time or after a series of alterations would remove the nonconforming status. The structure would then need to comply with all existing zoning code requirements.

The Planning Commission also recommended the reorganization of the Chapter for better understanding of the provisions contained in the Chapter.

ENVIRONMENTAL ANALYSIS

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the proposed amendments on March 5, 2008 as per WAC 197-11-340(2).

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

The Planning Commission is recommending approval of the proposed text amendments.

RECOMMENDATION / MOTION

Move to: Staff recommends Council review the ordinance and approve at second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO NONCONFORMING USES AND STRUCTURES, ALLOWING RECONSTRUCTION OF ACCIDENTALLY DESTROYED NONCONFORMING USES AND STRUCTURES TO THE SAME OR SMALLER DIMENSIONS, AS LONG AS SUCH RECONSTRUCTION OCCURS WITHIN ONE YEAR OF THE DESTRUCTION; LIMITING INTENTIONAL CHANGES TO NONCONFORMING STRUCTURES TO 50 PERCENT OF THE REPLACEMENT VALUE OF THE STRUCTURE; REQUIRING A PERMIT FOR REVIEW OF NONCONFORMING USE AND STRUCTURE CHANGES; AND REORGANIZING THE CHAPTER FOR BETTER IMPLEMENTATION; ADDING NEW SECTION 17.68.025, AMENDING SECTIONS 17.68.030, 17.68.038, 17.68.040 AND 19.01.003; REPEALING SECTION 17.68.035; RENUMBERING SECTIONS 17.68.045 AND 17.68.060 OF THE GIG HARBOR MUNICIPAL CODE AS ADOPTED IN ORDINANCE 1122

WHEREAS, chapter 17.68 may not allow the reconstruction of existing residential and nonresidential uses after accidental destruction; and

WHEREAS, in Ordinance 1122, the City Council directed the Planning Commission to review Chapter 17.68 GHMC and provide Council recommendations for changes by July 1, 2008; and

WHEREAS, the City desires to allow all uses to rebuild in the case of destruction by acts of nature to retain the services and housing options provided in the City; and

WHEREAS, the City desires that the rebuilding of nonconforming uses and structures comply with all municipal codes to the extent possible in order reduce the perpetuation of nonconformities in the structure and to achieve the vision and goals of Gig Harbor; and

WHEREAS, additional changes need to be made to the language in GHMC Section 17.68.040, so that a nonconforming structure may not be intentionally destroyed, altered or damaged more than 50 percent of its replacement value and then reconstructed to its original dimensions; and

WHEREAS, the City desires to reorganize chapter 17.68 GHMC to achieve better understanding of the provisions contained in the chapter; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on March 5, 2008; and

WHEREAS, on March 5, 2008, a copy of this Ordinance was sent to the Washington Department of Community, Trade and Economic Development, pursuant to RCW 36.70A.106; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on March 6, 2008 and made a recommendation of approval to the City Council on March 20, 2008 after a work-study session; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on _____, 2008; and

WHEREAS, on _____, 2008, the City Council adopted this Ordinance at second reading during a regular City Council meeting; Now, therefore;

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

Section 1. A new Section 17.68.025 of the Gig Harbor Municipal Code is hereby added to the Gig Harbor Municipal Code, to read as follows:

17.68.025 Nonconforming use and structure review.

A. Any change to a nonconforming use or nonconforming structure shall be reviewed for compliance with the standards of this Chapter and nonconforming review approval shall be obtained prior to the commencement of any such change.

B. Nonconforming review is a Type II project permit application and shall be processed as set forth in Title 19 GHMC with the exception of changes described in GHMC Section 17.68.035 which shall be processed as a Type III project permit application as set forth in Title 19 GHMC.

Section 2. Section 17.68.030 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.68.030 Nonconforming uses of land.

When, before the effective date of the adoption or an amendment of the applicable regulations, a lawful use of land existed that would not be permitted by the regulations thereafter imposed by ~~Chapter 17.04~~ Title 17 GHMC or amendments thereof, the use may be continued so long as it remains otherwise lawful, and shall be deemed a nonconforming use; provided however, that:

A. Enlargement Prohibited. No such nonconforming use shall be enlarged in size or increased in size or extended to occupy a greater area

of land than was occupied at the effective date of the adoption or an amendment of such applicable regulations;

B. Movement of Uses. No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of the adoption or an amendment of such applicable regulations;

C. Destruction and Discontinuance.

1. If any such nonconforming use of land ceases is discontinued for any reason for a period of more than one year, any subsequent use of land shall conform to the regulations specified by this title for the district in which such land is located. "Discontinued" is defined in GHMC Section 17.68.038.

2. A nonconforming use that is damaged by fire, act of nature or other causes beyond the control of the owners may be resumed, as long as the use is not discontinued more than one year. Any structure occupied by a nonconforming use that is unintentionally destroyed may only be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was damaged or destroyed. The reconstruction shall comply with all applicable building codes in force at the time of replacement. As determined during the nonconforming use and structure review process (see GHMC Section 17.68.025), the reconstruction shall comply with all other applicable codes to the maximum extent possible.

3. When a structure and premises have a nonconforming use status, the intentional removal, intentional destruction or intentional alteration of the structure shall eliminate the nonconforming use status. Intentional removal, intentional destruction and intentional alteration for the purposes of this subsection is defined as damage and/or alterations valued at more than 50 percent of the replacement value of the structure at the time of damage and/or alterations as determined by the square foot construction cost table in the city's fee schedule or a contractor's estimate.

D. No additional structure not conforming to the requirements of this title shall be erected in connection with such nonconforming use of land.

Section 3. Section 17.68.035 of the Gig Harbor Municipal Code as last amended by Ordinance 1122, is hereby repealed.

Section 4. Section 17.68.045 of the Gig Harbor Municipal Code, "**Changes from one nonconforming use to another**", as last amended by Ordinance 1122, is hereby renumbered to Section 17.68.035.

Section 5. Section 17.68.038 of the Gig Harbor Municipal Code, as last amended by Ordinance 1122, is hereby amended to read as follows:

17.68.038 Discontinuance of nonconforming structures uses and uses structures.

A. A use is considered discontinued when:

1. A permit to change the use of the nonconforming lot or nonconforming structure was issued and acted upon;
2. The structure, or a portion of the structure is not being used for the nonconforming use allowed by the most recent permit;
3. The structure is vacant, or the portion of the structure formerly occupied by the nonconforming use is vacant. The use of the structure shall be considered discontinued even if materials from the former use remain or are stored on the property. A multi-family structure with one or more vacant dwelling units is not considered vacant and the use is not considered to be discontinued unless all units in the structure are vacant.
4. If a complete application for a permit that would allow the nonconforming use to continue, or that would authorize a change to another nonconforming use has been submitted before the structure has been vacant for twelve (12) consecutive months, the nonconforming use shall not be considered discontinued unless the permit lapses or the permit is denied. ~~If the permit is denied, the nonconforming use may be reestablished after all appeals are exhausted, if the City's denial is reversed.~~

Section 6. Section 17.68.060 of the Gig Harbor Municipal Code, "**Uses permitted under conditional use provisions**", is hereby renumbered to Section 17.68.039.

Section 7. Section 17.68.040 of the Gig Harbor Municipal Code, as last amended by Ordinance 1122, is hereby amended to read as follows:

17.68.040 Nonconforming structures.

When a lawful structure existed at the effective date of the adoption or an amendment of the applicable regulations and could not be built under the terms of the current regulations set forth in GHMC Title 17, or amendments thereof, by reason of the restrictions on area, lot size or dimension, coverage, height, yards and the location on the lot or other requirements concerning the structure, such structure may be continued as a nonconforming structure so long as it remains otherwise lawful and shall be subject to the following provisions:

A. No such nonconforming structure may be altered or remodeled in any way that increases its nonconformity respective to bulk or dimensional standards in effect, but any structure or portion thereof may be altered or remodeled to decrease its nonconformity;

B. A nonconforming structure that is damaged by fire, act of nature or other causes beyond the control of the owners may be reconstructed as long as it is not discontinued for more than twelve consecutive months. Any such structure that is unintentionally destroyed shall be reconstructed to the same or smaller configuration existing immediately prior to the time

the structure was damaged or destroyed. The reconstruction shall comply with all applicable building codes in force at the time of replacement. As determined during the nonconforming use and structure review process (see GHMC Section 17.68.025), the reconstruction shall comply with all other applicable codes to the maximum extent possible. "Discontinued" is defined in GHMC Section 17.68.038; and

~~C. When a nonconforming use of a structure and premises is discontinued for one year, the structure and premises shall not thereafter be used except in conformity with the regulations of the district in which it is located; and~~

C. Any such nonconforming structure or nonconforming portion of a structure that is intentionally damaged or intentionally altered may be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was damaged or altered, provided the alterations and/or damage is valued at less than 50 percent of the replacement value of the structure as determined by the square foot construction cost table in the city's fee schedule or a contractor's estimate. Reconstruction shall occur within one year of the time of intentional damage or alteration or not at all. The reconstruction shall comply with all applicable building codes in force at the time of replacement. As determined during the nonconforming use and structure review process (see GHMC Section 17.68.025), the reconstruction shall comply with all other applicable codes to the maximum extent possible. Interior only remodels which do not increase a structure's nonconformity shall not count towards the replacement cost as it relates to this section;

~~D. When a structure and premises have has a nonconforming use structure status, the intentional removal, or intentional destruction damage, or intentional alteration of the structure shall eliminate the nonconforming status. Upon the elimination of the nonconforming status, the structure shall be brought into conformity with the existing code or shall be removed. Intentional Removal, and intentional destruction damage, or intentional alteration for the purposes of this subsection is defined as damage and/or alterations valued at more causing loss value greater than 50 percent of the replacement cost value of the structure at the time of destruction damage and/or alterations, over the lifetime of the structure, as determined by the square foot construction cost table in the city's fee schedule or a contractor's estimate.~~

Section 8. Subsection GHMC 19.01.003(B) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.01.003 Project permit application framework.

* * *

B. Decisions.

TYPE I	TYPE II	TYPE III	TYPE III-A	TYPE IV	TYPE V
Permitted uses not requiring site plan review	Short plat	Plat vacations and alterations	Preliminary plats	Final plats	Comprehensive plan amendments
Boundary line adjustments	Sign permits	Site plan/major amendments to site plans	Preliminary PRD/PUD	Final PRD/PUD	Development regulations
Minor amendments to PUD/PRD	Design review ¹	CUP, general variances, sign permit variances, and site specific rezones			Zoning text amendments; area-wide zoning map amendments
Special use permits	Land clearing/grading	Shoreline substantial development, shoreline variance			Annexations
Temporary construction trailers	Revisions to shoreline management permits	Major amendments to PRD and PUD			
	Administrative variances	Amendment to height restriction area map			
	Administrative interpretations	Mobile/manufactured home park or subdivision			
	Home occupation permit	Performance-based height exception			
	Hardship variance, sign code				
	Modification to landscape plans				
	Minor amendment to PRD or PUD				
	<u>Nonconforming use and structure review</u>				

¹ In addition to the procedures in Title 19, applications for Design review shall follow the procedures set forth in Chapter 17.98 GHMC.

Section 9. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or

constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 10. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ___ day of ____, 2008.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Carol A. Morris, City Attorney

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

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
January 3, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Jeane Derebey, Joyce Ninen and Dick Allen. Commissioners Theresa Malich and Jill Guernsey were absent. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

APPROVAL OF MINUTES

It was decided to reference the waterfront zones specifically on page 2 2nd paragraph and to remove the phrase "if they meet that definition" as it was redundant. Commissioner Pasin asked for clarification of a sentence in the first paragraph on page 3 and it was decided to remove the second half of the sentence which said "and Ms. Kester added that we could add a specific definition" and replace it with "in the waterfront zones". Mr. Pasin also pointed out that he meant to express his disapproval of the 65,000 square foot limitation rather than 35,000 as stated on page 4.

MOTION: Move to approve minutes of December 20th, 2007 as amended. Ninen/Pasin – Motion passed unanimously.

OLD BUSINESS

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335** – Proposal by the City Council to amend the definition of gross floor area; create definitions for underground parking, basement, finished grade, and original grade; amend parking requirements to include maximum number of parking spaces for uses; and reconsider the maximum building sizes for WC, VM and WR zones.

Senior Planner Jennifer Kester went over her memo on underground structures and an e-mail from Randy Boss. She stated that she hoped to have them review the memo and then develop a memo to the City Council at the next meeting.

2. Introduction of the first quarter work program:

- Implementation of Neighborhood Design Areas in Design Manual
- Grandfathering Nonconforming Structures Inside and Outside the Waterfront Zones/ Triplexes in R-2 zone
- Removal of Mixed Use District Overlay and determination of appropriate underlying zoning
- Limiting Office Uses in Waterfront Millville
- Appropriateness of RB-1 zoning district locations and allowed uses

Ms. Kester went over the first quarter work program, explaining that the work program won't get final approval until the City Council meeting of January 14th. She then gave a brief overview of each item in the first quarter, noting that the proposals do not have to be done in any specific order and that there will be one public hearing for all of them.

Implementation of Neighborhood Design Areas in the Design Manual

Ms. Kester talked about some of the proposals included in this amendment and that one of the issues were what do we do where neighborhood design areas meet.

Commissioner Jeane Derebey said that she thought that this would be difficult without knowing exactly what the design criteria would be in each area. Ms. Kester stated that she thought the opposite was true as the criteria would be difficult to develop if we're unsure how they would be implemented. She went on to say that the goal within this quarter was to talk about what the intent was and how neighborhood design areas should be implemented. Commissioner Harris Atkins asked if we would try to identify criteria and who would review them and Ms. Kester said yes; however, it could be a very simple approach. Ms. Derebey supported approaching it from a simplified standpoint. Mr. Atkins noted that they would get to those specifics at a later date. Ms. Kester pointed out where there are commercial areas that are not necessarily abutting parcels but could be addressed with some kind of hatched area on the map. Planning Manager Tom Dolan suggested that staff could look over the map and come up with some real life examples and case studies to help the discussion. Mr. Pasin said that he thought that the other area where there will be a problem is when someone owns three parcels and maybe one is in one design area and two are in another. Ms. Kester agreed that that would have to be addressed as well, pointing out that it would additionally complicate the situation if someone did a Boundary Line Adjustment and now their parcel is in two different neighborhood design areas. Mr. Atkins expressed that they may not understand the transition areas between these areas enough to come up with a fool proof solution.

Ms. Kester noted that they could discuss this after completing the other four items in this quarter since they will result in a public hearing and text amendment; whereas, this is merely a discussion.

Commissioner Joyce Ninen asked if the neighborhood design areas will have its own section in the design manual and Ms. Kester said that yes it will probably be its own chapter. Mr. Pasin pointed out that if you read the residential section, historic district section and the zone transition section it will become apparent what some of the issues may be. Mr. Atkins suggested that they devote an entire meeting with some DRB members to discuss this issue. Ms. Kester also stated that it may need to be discussed with a sub group.

Mr. Pasin said that he felt that how the design manual gets organized relative to this issue will become very important. Ms. Kester agreed that it will be important to look at how it is organized and integrated.

Ms. Ninen stated that she thought it would be helpful to have a refresher course on the design manual. She asked which area Ms. Kester felt would be good to start with and Ms. Kester answered that she had thought northwest industrial would be a good one to start with. Mr. Atkins asked if that was an area of great demand and Ms. Kester said that it was the area that our design manual does the worst job being specific. Mr. Pasin said that he felt the standards were restricting development from the intent of the zone. Ms. Derebey asked if this item was something that should be dealt with in the first quarter and Ms. Kester explained the thought process behind the items in this quarter and that it would have to be brought before the Planning and Building Committee if they wanted to change it. Ms. Kester reiterated that in order to continue the discussion on Neighborhood Design Areas, the Planning Commission wanted examples of transition areas, a refresher on the design manual and to get Design Review Board members involved. Mr. Pasin pointed out that maybe the Planning Commission needed new design manuals. Ms. Kester said that when the new comp plan is printed staff will also get them new design manuals.

Ms. Derebey asked about the comp plan amendment for 2008 that Mr. Atkins had asked about, pointing out that the land use map does not really reflect to goals of the city. Mr. Dolan said that he felt that it was important that our land use map and zoning map are consistent. Ms. Kester noted that the hurdle will be concurrency because if we up the designation to something that increases the intensity it will require concurrency which we do not have. She noted that if we are lowering the designation it will not be an issue. Additionally, she stated that the 2008 comp plan amendments will be looked at in the third quarter. Mr. Atkins noted that the impact of these two documents being incompatible is that we are encouraging development that is inconsistent with current policies and goals.

Grandfathering Non-conforming Structures Inside and Outside the Waterfront Zones/Triplexes in R-2 zone.

Ms. Kester went over the proposal and reminded the commission of a previous discussion on this topic. Mr. Dolan noted that on January 28th the Council will be considering the draft ordinance on an interim solution and that they are expecting a recommendation from the Planning Commission on a permanent solution. She explained that currently (except in the shoreline area) if a structure is damaged beyond 50% then it can't be replaced. She further stated that there had been some discussion of whether or not people should be able to rebuild. She noted the information that she had provided outlining how many triplexes and fourplexes were in the R-2 zone, 33% of the dwelling units in that zone are nonconforming. Mr. Pasin stated that they had had some discussions during the formation of the matrix and asked that perhaps they could look at some of those notes. Mr. Dolan pointed out that there were some other items within the proposed ordinance that dealt with process changes.

Removal of the Mixed Use District Overlay and determination of appropriate underlying zoning

Ms. Kester stated that this item had been on the work program for a couple of years. She noted that the City Attorney and the Planning and Building Committee had expressed the overlay should probably be removed. She further explained that if the overlay is removed it will effectively down zone some of the properties; therefore, we need to look at what the properties should be zoned. She stated that the MUD could become a zone; they could just leave the zones as they are or they could come with entirely different zones. Mr. Pasin said that what had always bothered him with this is that they don't seem to know what they really want in this area. Ms. Kester said there was a Mixed Use District land use designation in the Comprehensive Plan which might help. Mr. Pasin stated that with the advent of Harbor Hill Drive the vision for that area may not be the same. Mr. Atkins asked what the original intent was and Ms. Kester said that at that time there was a big push for mixed use types of development and for some flexibility. Mr. Dolan said that it isn't necessarily the uses that are allowed there that is the problem, but rather the process. Ms. Ninen said that mixed use zones are very popular and Ms. Kester said that the issue is just that people need to know what could be built next to them. Mr. Pasin said that the mixed use zones were really for more of an urban setting. Ms. Kester said she would bring the policies out of the comp plan to the next meeting to help with the discussion. She also noted that there had been a rezone to ED in the area. Ms. Ninen also noted that there is a proposed connection road and that it would make sense to have more retail development. Mr. Atkins said that once Harbor Hill Drive connects to Burnham it could really be a traffic issue if we add more retail uses here. Ms. Kester stated that traffic models that have been run have always assumed that this area is mixed use.

Limiting Office Uses in Waterfront Millville

Ms. Kester said that this item had been around the longest, proposed in 2005. She noted that it had been proposed prior to the land use matrix and the applicant was proposing the office uses only be allowed as incidental uses in existing buildings. She noted that this had come about as a result of an approved 3500 sq ft office building that has yet to be built. Additionally, Ms. Kester noted that they would have to think about what is incidental. She noted that office uses also have different impacts than some of the other uses already allowed in this zone. Mr. Allen said that he thought that the 3500 sq ft limit solved the applicant's concerns. Ms. Kester stated that it had been pointed out to the applicant and they still wanted to move forward with this amendment. Ms. Kester then pointed out that this would make a couple of buildings nonconforming.

Acting Chair Harris Atkins called a five minutes recess at 7:25 pm. The meeting was reconvened at 7:30.

Appropriateness of RB-1 zoning district locations and allowed uses

Ms. Kester stated that the Planning Commission had requested this back in 2006. She pointed out that she had provided the minutes and power point presentation that went to the Council on the RB-1 zones. Ms. Ninen noted that there were 12 RB-1 areas. Ms. Kester said that a lot of these items in this quarter will have heavy public involvement.

Ms. Kester then asked the Planning Commission which of the items they wanted to tackle at the next work study session.

Ms. Derebey stated that she would like to look at the RB-1 zoning, the mixed use overlay and nonconforming structures. Ms. Ninen agreed as she felt they should be able to get those done. Mr. Pasin said that he would like to look at nonconforming structures, the mixed use overlay and office uses in Waterfront Millville at the next meeting and leave the RB-1 issue until the meeting after that. Ms. Derebey said that she felt that there was more information for the three she had proposed. Mr. Atkins said that he felt the RB-1 issue was large. Ms. Kester stated that she felt that the nonconforming structures, mixed use overlay and office uses in Waterfront Millville could be covered at the next meeting. Ms. Derebey suggested working on just nonconforming structures and the mixed use overlay since everyone agreed on those. Ms. Kester agreed that working on those at the next meeting and then work on the other two at the February meeting was a good approach. Mr. Atkins agreed. Ms. Kester stated that she was shooting for either February 21st or March 6th for a public hearing. Mr. Dolan assured the commission that staff will make sure and get ample notice out for the public hearing.

UPCOMING MEETINGS

January 17th, 2008 – Work Study Session

Ms. Kester said that at the next meeting she will have a finalized memo for the City Council. She went through the memo she had provided and pointed out what she had changed. Ms. Ninen asked about Mr. Boss's e-mail regarding the 24' entrance and Ms. Kester said that she was thinking they could still forward their recommendation to the City Council and see if they agree with the Planning Commission approach and then we will discuss the specifics such as Mr. Boss's concerns, when we have a public hearing.

Mr. Atkins noted for the record that at the next meeting they will hold election of officers, finalize the memo to the City Council and then move on to a work study session on the two proposed amendments.

ADJOURNMENT

MOTION: Move to adjourn at 7:45 p.m. Derebey/Pasin – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
January 17, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Theresa Malich, Jill Guernsey, Joyce Ninen and Dick Allen. Commissioner Jeane Derebey was absent. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

ELECTION OF OFFICERS

Commissioner Harris Atkins nominated Theresa Malich to serve another term as Chair and Commissioner Jill Guernsey seconded the nomination.

Commissioner Joyce Ninen nominated Harris Atkins to serve another term as Vice Chair and Theresa Malich seconded the nomination.

MOTION: Move to elect Theresa Malich as Chair and Harris Atkins as Vice Chair. Ninen/Guernsey – Motion passed unanimously.

APPROVAL OF MINUTES

It was noted that at the bottom of page two it should say Mr. Pasin rather than Ms. Pasin, at the top of page two change the word “their” to “the” and spell out Boundary Line Adjustment.

MOTION: Move to approve the minutes for January 3rd, 2008 as amended. Ninen/Atkins – Motion passed unanimously.

Senior Planner Jennifer Kester noted that the second item on the agenda; Nonconforming Uses in the R-2 zone and nonconforming structures regulations, may have some conflict of interest issues since a Planning Commission member may have a chance to benefit and may need to recuse themselves. Ms. Kester suggested that the commission may want to move this to the last item on the agenda or limit the discussion to the nonconforming uses. It was decided that this item would be moved to the end of the agenda and Theresa Malich and Dick Allen would recuse themselves at that time since they own property in an R-2 zone.

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335** – To finalize a memo to City Council for further direction on the topic of underground structures. Memo includes new definitions for gross floor area, underground building and attic.

Ms. Kester pointed out the memo that she had drafted on the proposed amendments related to underground structures and asked that the commission look it over to assure that it conveyed their thoughts on the issue. She then talked about the draft definitions.

Planning Commissioner Joyce Ninen mentioned that she was unsure if underground building was the appropriate term and suggested perhaps space or area. Discussion followed on perhaps using underground floor area. Everyone agreed to change the term to floor area and Ms. Kester said that she would change the text and any references.

Planning Commissioner Jill Guernsey brought up an issue with the definition of gross floor area, to perhaps remove the word several and change floor to floor(s). Planning Commissioner Pasin asked why it states "or buildings" and Ms. Kester said that the issue is that by code a building that appears to be one can be separated by firewalls and technically be made into several buildings. Ms. Kester explained the performance standards. Planning Commissioner Harris Atkins said that the sentence implies that several buildings might be on one lot. He asked if it was still covered in the performance standards if we removed buildings. Mr. Pasin asked why someone couldn't have several buildings together under separate ownership. Ms. Kester explained that the exterior mass of the building is what is calculated. Mr. Dolan stated that this language will allow us to administer the code better. Ms. Guernsey suggested that it say "of each floor" rather than "at each floor". Everyone thought that "at each floor" was the appropriate phrase. Mr. Pasin suggested that they remove the phrase entirely and Ms. Guernsey agreed. Ms. Kester asked what would be calculated, the floor area or the entire area and explained that was why "at each floor" was necessary.

Mr. Pasin asked about interior balconies and mezzanines and how they are calculated. Ms. Kester explained how they were calculated and defined. Ms. Ninen asked about the mechanical equipment room and how it is calculated. Ms. Kester explained that the units that are not in a room would not be counted. Ms. Ninen clarified that gross floor area for the waterfront will be discussed at another time.

It was asked by Mr. Pasin if in Item B, it was referencing attached and detached and Ms. Kester replied that yes that was in the performance standards. Mr. Pasin then asked about underground floor area where it says 24 linear feet of access. He asked how that would work and Ms. Kester said that she believed that the decision was that this issue would be discussed after hearing the public input. They referenced an e-mail from Randy Boss and Ms. Kester further explained that they will decide on what that exact number is after the public hearing, this memo is just to let the council know that the commission wants to make a provision for access. Mr. Pasin asked why they would want to limit the access point so that someone would instead have acres of parking. Mr. Atkins reminded him that the Planning Commission is trying to allow underground parking in a reasonable way. Mr. Dolan suggested that it could say as required by the building code. Ms. Kester said that she would clarify in the council memo that these issues were not firm.

Ms. Kester then asked if they were done with the definitions and if everyone was okay with the memo. Ms. Ninen felt that the memo was very concise. Ms. Kester asked for a motion to approve the memo and direct Chairman Malich to sign it.

MOTION: Move to authorize the Chair to send this memo to council as amended. Atkins/Ninen - Motion passed with Mr. Pasin opposed.

Chairman Malich called a short recess at 7:00 p.m. The meeting was reconvened at 7:05 p.m.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.

Ms. Kester displayed a map of the overlay area. She stated that the consensus among staff, the City Attorney and the City Council is that the overlay needs to be removed. She explained how overlays usually work, adding restrictions and that this one allows additional uses. Ms. Kester explained what would happen if the overlay were removed and the underlying zones were left, stating that some of the properties would be effectively down zoned. She stated that the comprehensive plan has designated this area as a mixed use area. Mr. Pasin said that if we remove the overlay and the road gets developed then there is an opportunity to rezone around it to something more appropriate. Ms. Kester pointed out 96th street and explained the proposed split diamond approach and how the new interchange may affect this area. She stated that this area will change so the question is whether we want to change it now or wait for when the interchange is put in and examine it then. Mr. Atkins said that it seemed like the Mixed Use District was a good idea and asked why it failed. Ms. Kester answered that some of the property owners have taken advantage of the zoning or are anticipating taking advantage of the Mixed Use District but first there was a transportation issue and then a sewer issue. Mr. Atkins said that the underlying zoning doesn't seem to make sense, but rezoning is a large project. Ms. Kester suggested that the Mixed Use District could become its own zone they could just rezone everything in the overlay. She said that there will be some property owners who won't like that. Mr. Atkins said that he had driven the area and it was quite amazing all the stuff that was in there. Mr. Pasin stated that he thought that some of the area actually didn't reflect the area where the uses would probably grow once the interchange is in place.

Ms. Guernsey asked about the effects of removing the overlay and just having the underlying zoning. Ms. Kester explained how the overlay is applied. Ms. Ninen suggested changing the Mixed Use District to include the uses currently in the underlying zone. Ms. Kester agreed that the Mixed Use District could be tweaked to include some of the uses and standards from the other zones. She said that she would most closely liken the Mixed Use District to the B-2 zone with a density calculation that is much lower. Additionally, she noted that the traffic studies that were done assumed highest and best use. Ms. Kester then explained how it would need to happen if they

were to create a mixed use zone stating that it would not be that difficult but would have to add some impervious surface limitations and some rewording.

Ms. Kester said that she could work on a proposal to make the mixed use overlay a zone. Mr. Pasin said that he was concerned about the section that distinguishes between different size parcels and Ms. Kester said that section may have to go away. Mr. Pasin said that he also had a concern with zone transition. Mr. Atkins agreed that was something to be considered, but suggested they pick an approach and then look at those issues. Ms. Kester then highlighted the land use designation. Everyone agreed that Ms. Kester would work on a mixed use district zone and then they could discuss the boundaries, etc. Mr. Pasin stated that he was concerned that some of the area needed to be another zone and everyone agreed that that may be true but that right now they just needed to figure out what a mixed use zone is and then decide what area will be within it and what some of the other properties might be zoned. Ms. Guernsey suggested that at the next meeting they have an aerial photo so that they can see what is there now.

3. Direct Council consideration of an ordinance that would standardize how residential heights are measured in Historic Districts.

Planning Director Tom Dolan explained that this was the result of the height issue with the two new homes being constructed along Harborview. He noted that there is a provision in the Historic District that is not in any other zone that says height is measured from natural grade for residential. He continued by saying that staff is proposing a small change that will make how you determine height consistent throughout the height restriction area. He explained that the change would be to change the wording to say “natural and finished grade” so that it would be the same for residential or commercial. Mr. Dolan stated that the City Council was asking for direct consideration on this item.

Mr. Pasin said that he thought it needed further discussion. Ms. Malich suggested that this might be a good subject for a combined meeting of the DRB and Planning Commission. Ms. Kester said that it is a larger question as to whether the height allowed is even correct. Mr. Dolan said he recommended that the larger discussion happen in the examination of the view basin plan. Ms. Kester explained how this will be more restrictive. Discussion followed on how structures are measured.

MOTION: Move to recommend the Council enter into direct consideration of this item. Ninen/Atkins – Motion passed unanimously.

Theresa Malich and Dick Allen recused themselves for the next item.

4. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0031 – Nonconforming Uses in R-2 zone and nonconforming structures regulations.

Ms. Kester referred everyone to the ordinance that the City Council is considering. Mr. Pasin asked about the section on non conformities and that he thought that it applied across the board. Ms. Kester explained that the change to all the other zones had never been passed by Council and now they are asking if this new language for R-2 should apply to the whole city. She pointed out that the new 17.68.035 is to replace 17.68.030. She went over other new sections and what sections they replaced and how they could be rewritten for all zones within the city rather than just R-2. Ms. Ninen asked if these code changes will solve the problem for the people who can't get insurance or financing. Ms. Kester said that yes, this should solve their problem. Ms. Ninen if R-2 usually only allowed up to a duplex and Ms. Kester said that cities are different so there is really no standard. Mr. Atkins asked if they were to make the uses conditional in R-2 would that have the same effect. Ms. Kester said that the triplex or fourplex might still be a nonconforming structure not just a nonconforming use. Ms. Ninen agreed that in addition to the nonconforming change the uses should be conditional. Ms. Kester said that they may also have to change the impervious surface standards. She also cautioned them that it may not result in many fourplexes due to the density standards. Mr. Pasin said that he felt it helped in affordable housing and density requirements. Ms. Kester also suggested that they may want to look at a minimum density and noted that minimum residential densities have been an issue. Mr. Atkins reiterated their desire to proceed with this ordinance revised to apply to the entire city and look at the R-2 standards with another text amendment to modify the uses and standards in the R-2 zone. Everyone agreed.

Ms. Kester clarified that the nonconforming allowance would apply to commercial and residential. Discussion followed on the ramifications of the continuation of nonconforming commercial uses. Ms. Ninen said that she felt that maybe commercial should not be allowed. Mr. Pasin said that he felt that it should apply to both. Ms. Guernsey went over the sections to clarify what issue each applied to. Ms. Kester explained and also gave examples of some nonconforming uses and structures. Mr. Atkins said that this issue is much larger than he originally thought. Ms. Guernsey said that right now she would like to limit it to residential. Ms. Kester said that they could have another work study session and staff could draft two different ordinances for consideration. Mr. Pasin reminded everyone that the commercial structures make up our community. Mr. Atkins agreed that there are many structures that are worth saving but that he just wanted to look at the issue further. Mr. Dolan suggested that staff could come with some examples of nonconforming structures and uses. Mr. Atkins said that he felt that the purpose is to address the problem raised and he thought they should look at it further. Ms. Guernsey clarified the language and its meaning and that the issue with respect to uses is do they allow any nonconforming use to rebuild if it's destroyed by an act of God. Mr. Atkins said that the other section that concerned him was the section about vacancy. Mr. Dolan reminded the commission that by State law nonconforming uses are designed to go away because if you don't want them to go away, you should rezone it.

UPCOMING MEETINGS

Ms. Kester reminded everyone that the next meeting is on February 7th and that two items will be coming back from this meeting and they also needed to tackle the other two items for this quarter. She suggested adding the item on office uses in the Waterfront Millville zone. Mr. Pasin suggested that for the Mixed Use subject they know what applications are currently in the system.

Ms. Kester then let the commission know that the Council had approved the work program and there was discussion that the Planning Commission might need more time and staff agreed that they would facilitate a modification to the work program if more time was needed rather than rush items through. Mr. Dolan said that probably in April they will have another joint meeting with the City Council. Mr. Atkins asked that they know about possible dates and Assistant Planner Diane Gagnon agreed to contact the City Clerk to coordinate possible dates.

ADJOURNMENT

MOTION: Move to adjourn at 8:38 p.m. Guernsey/Ninen – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
February 21st, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Harris Atkins, Theresa Malich, Joyce Ninen, Dick Allen, Jill Guernsey and Jeane Derebey. Staff Present: Tom Dolan and Cindy Andrews.
Commission member Jim Pasin arrived at 7:05 pm

CALL TO ORDER: 6:10 pm

APPROVAL OF MINUTES:

MOTION: Move to table the minutes from February 7th, 2008 until meeting of March 6th, 2008. Atkins/ Ninen – Motion passed unanimously

NEW BUSINESS

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335-**
ZONE 08-0003 – Appropriateness of RB-1 zoning district locations and allowed uses in the RB-1 zone.

Purdy Dr. and 144th St NW

Ms. Guernsey asked what currently occupied the site. Mr. Dolan replied an auto repair business and a single family residence. Mr. Atkins stated that RB-1 would be an appropriate use. Ms. Ninen felt that RB-2 would be a more appropriate use. Ms. Derebey asked if there had been any single family residences in the affected area. Ms. Ninen and Ms. Guernsey pointed out the residential homes in the area. Mr. Allen asked if the auto repair shop would be non-conforming. Mr. Dolan replied yes.

Purdy Drive

Mr. Dolan pointed out the site on Purdy Dr. noting that Aspen Land Surveying Company currently occupied the site and that the use would continue to be a permitted use. Mr. Atkins asked if it would be an appropriate use.

Sehmel Drive

Mr. Dolan described the Sehmel Drive piece. Ms. Ninen asked if it had been included in the Burnham / Sehmel Annexation. Mr. Dolan replied yes. Mr. Dolan stated the annexation area included approximately 380 acres incorporating all of the UGA area in to Purdy extending over to the Women's Prison. Mr. Allen asked what the zoning designation would be. Mr. Dolan replied predominantly R-1 with some ED zoning. Mr. Atkins asked if the applicant had been willing to zone to current zoning.

Peacock Hill Ave and Ringold Ave

Ms. Derebey and Ms. Malich felt the property should be zoned R-1. Mr. Atkins suggested R-2 multi-family would be a more appropriate use. Ms. Ninen and Ms. Derebey agreed residential with a higher density would be appropriate. Mr. Dolan suggested other uses such as nursing homes or assisted living would also be allowed. Mr. Atkins agreed it should be changed to R-1 or R-2.

Burnham Dr.

Mr. Dolan noted the property included 3 lots situated between Burnham Dr. and Harborview Dr., next to the Puerto Vallarta Restaurant explaining that the zoning to the north would be B-2. Ms. Malich felt that RB-1 would be a nice transition zone. Ms. Guernsey discussed rezoning the lots to different designations. Mr. Atkins asked if the lots would be conforming uses. Ms Malich preferred RB-1 suggesting that the lot abutting Burnham Dr. be a higher use than the lots fronting Harborview Dr.

Peacock Hill Ave and North Harborview

Mr. Dolan noted the areas surrounding the site as single family residential. Ms. Malich noted single family would be an appropriate use. Mr. Atkins and Ms. Ninen agreed that RB-1 was appropriate. Ms. Malich would like to keep it as is.

Stinson Ave – (Spadoni Corner)

Ms. Ninen explained her concern that the site currently operated as a non-conforming site suggesting a zoning of R-2 or R-3 would be more appropriate. Mr. Allen suggested commercial zoning. Ms. Ninen disagreed noting traffic concerns suggesting a higher density residential would be the most appropriate. Ms. Malich agreed asking if other sites in the vicinity would also have to be rezoned. Mr. Dolan responded no. Ms. Derebey and Ms. Ninen had concerns with rezoning to R-2. Ms. Malich suggested mixed use buildings. Ms. Ninen agreed. Ms. Derebey explained the location would be good for new restaurants. Ms. Malich asked if the property were to be changed to mixed use would another dirt place be allowed. Mr. Dolan replied no.

Soundview and Harborview – (Haub property)

Ms. Ninen asked if the property would be impacted by the shoreline master program also asking if there had been any plans for development. Mr. Dolan replied no suggesting that RB-1 could be a good use. Ms. Ninen and Ms. Derebey agreed. Mr. Atkins asked if the designation in the comprehensive plan would be single family residential. Mr. Dolan replied yes. Mr. Atkins suggested leaving the property zoned as is.

Grandview and Stinson

Ms. Ninen asked if the property close to the freeway had been included. Ms. Malich suggested a more intense residential zoning. Ms. Malich would like to see what the public has to say about the area. Mr. Atkins discussed the property to the east of Stinson Ave explaining that it would make more sense for those properties to be included in an RB-1 zone however the other properties closer to the freeway would be better zoned for restaurants and service stations. Ms. Ninen agreed.

West Side of the Highway - Near Stroh's Field

Mr. Dolan noted that the property bordered the proposed Pierce Transit Park-n-Ride facility to the north and single family residential to the south. Ms. Ninen suggested that RB-2 would be an appropriate zone. Mr. Allen agreed stating as long as there would be sufficient buffering. Ms. Derebey agreed

Top of Soundview

Ms. Ninen stated that the zoning appeared appropriate. Ms. Malich agreed and suggested that they move on to the next item.

56th St and 38th Ave

Mr. Dolan discussed the business in the vicinity, a gas station, veterinarian clinic and a daycare on one side a chiropractic clinic and office across the street and SFR north of 38th. Ms. Guernsey suggested commercial. Mr. Pasin explained that attempts had been made in the past to use some of the property as commercial for development of a mini-storage facility. Mr. Dolan suggested that the uses be looked at again for appropriateness and gave staffs recommendation that the commission go ahead with the public hearing giving the public the opportunity to comment.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335-

ZONE 08-0001 (Previously ZONE 07-0031) – Nonconforming use and structure amendments.

Talking Point #1: Should the provision for reconstruction of nonconforming uses in the event of an act of nature be extended to only residential nonconforming use or all nonconforming uses?

Mr. Pasin felt that the concern should be the use in a residential district not the structure. Mr. Dolan explained it may not be a residential zone it could be an RB-2 use in a C-1 zone. Ms. Derebey felt that if the structure had been destroyed then the nonconforming use should not be allowed to return. Mr. Dolan explained that the concern had been prompted by a tri-plex in a nonconforming zone. Mr. Atkins asked if structure should be damaged at 50%, no matter what the use, could they be rebuilt within 1 year. Mr. Dolan noted that the rule had been changed to 100% asking should the rule apply to residential and commercial. Ms. Derebey stated that she did not remember the issue of use as being a part of the conversation. Ms. Malich asked what the point would be in rebuilding if you could not have the same use. Ms. Derebey felt that if it is a non-conforming use the nonconforming use should not be allowed to return. Mr. Dolan explained that if the uses in some zones could be changed the use could then become conforming. Ms. Derebey suggested that the tri-plex issue should be reviewed. Mr. Atkins stated that by making the use a conforming use the issue would go away but not the problem of rebuilding them. Mr. Allen felt that losing the nonconforming use would be too severe. Ms. Guernsey felt that someone who had already built there should be allowed to rebuild both residential and commercial in the event of destruction by nature. Ms. Derebey agreed that due to an act of fire they should be allowed to rebuild the structure. Ms. Malich and Mr. Allen agreed. Ms. Ninen disagreed and would be opposed. Ms. Derebey, Mr. Atkins, Mr. Pasin, Ms. Guernsey and Mr. Allen agreed. Ms Ninen disagreed.

Talking Point #2: In the event of a nonconforming use reconstructing after an act of nature, should the structure / premise containing the use have to comply with only the current building/fire codes or should we ask that the structure comply with any many (Design Manual, Critical Area, Performance Standards) as possible while still maintaining the use.

Ms. Guernsey felt that the nonconforming uses should be brought up to conformity to the extent possible asking for clarification regarding the building size limits. Ms. Malich explained that would be one of the requirements. Mr. Pasin had been concerned with the downtown historic district front setback requirements. All members agreed that nonconforming structures should comply with as many applicable codes as possible when rebuilt.

Talking Point #3: If we allow a nonconforming structure (with a conforming use) to rebuild after an act of nature, should it only comply with building and fire codes, or should we try to get compliance with the Design Manual or other performance standards, to the extent possible.

Commission members discussed talking point #3. Mr. Pasin stated his concern that it could make rebuilding impossible for the property owners. Mr. Dolan explained the property owner would be asked to become compliant only if it would be possible if not they would still be able to rebuild. Ms. Malich felt that the structures should fit in with other structures in the area. Mr. Atkins asked how the regulations would be negotiated. Mr. Dolan stated that in Tacoma anything rebuilt had to meet the current code requirements. Ms. Malich agreed that redevelopment should comply with the same design guidelines as new development. Mr. Pasin had been concerned that matching some of the older buildings would be difficult pointing out that a structure should be able to be rebuilt to the standards that it was previously. Ms. Guernsey asked how that would be stated. Mr. Dolan explained that two alternatives could be drafted for commission member's review and suggestions could be made prior to the public hearing. Ms. Guernsey asked if a list could be generated of the codes that should be considered. Mr. Atkins suggested the board could agree on an opinion but not commit until after public comment has been received at the public hearing. Mr. Allen also would like the public's opinion. Mr. Dolan asked for suggestions for language. Ms. Malich suggested that all structures come into compliance to the extent possible. Mr. Atkins, Ms. Ninen and Ms. Derebey agreed. Mr. Allen and Mr. Pasin disagreed. Ms. Guernsey agreed to the extent that there should be no loss of square footage emphasizing that the language should be clear. Mr. Dolan explained that if a structure had been destroyed and could not meet the design requirements the Design Review Board could use their discretion for approval.

Mr. Atkins left at 8:00 pm.

Talking Point #4: Should an allowance be given to a property owner who intentionally alters or damages a nonconforming structure (such as a remodel).

Mr. Pasin asked regarding larger structures what would be wrong with remodeling 1/3rd at a time. Ms. Guernsey asked if the structures would be required to stay within the building footprint. Ms. Malich commented that intentionally altered or damaged nonconforming structures should not be allowed to rebuild as non-conforming. Mr. Allen asked if the structure had been a SFR and replaced by a new and better designed SFR would that not serve the community better than what had been there before. Mr. Dolan explained that a SFR can be repaired or remodeled but could not be completely torn down and rebuilt to the pre-existing nonconformity. Mr. Pasin agreed with the remodel situation but if the home is intentionally damaged he would not agree. Mr. Dolan suggested that staff could draft the ordinance and present it at the public hearing for discussion. Ms. Ninen discussed the percentage of structure that would be allowed to be replaced. Mr. Dolan clarified that percentage of allowable replacement for remodels at 50 % over a lifetime of the structure. Mr. Allen asked if there would be time limits. Ms. Guernsey responded yes 1 year. Mr. Pasin asked if the would be based on the application submittal or the complete application. Mr. Dolan responded a complete application. Mr. Allen asked if provisions had been provided for extensions. Mr. Dolan responded no.

Ms. Malich and Mr. Allen leave at 8:15 pm

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335-

ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district

Mr. Dolan discussed the number of nonconforming tri-plex and four-plex units inside city limits asking if commission members would like to change the code to allow them as conditional uses explaining that the density would also need to be changed. Ms. Ninen discussed the minimum density requirements. Mr. Dolan explained that minimum density had to meet the growth management goals noting that it could be a discussion for city council and planning commission to discuss later, noting that they should not be penalized for not meeting density. Mr. Pasin asked if a minimum had been stated in R-1. Ms. Guernsey stated we are talking about adding the minimum explaining that it would be urban density so it should be 4 units per acre and only for new structures. Ms. Derebey asked how that would be applied to existing uses. Ms. Guernsey suggested allowing them in R-2 zones. Ms. Derebey asked how that would apply to existing properties. Mr. Pasin asked if they would be permitted out right in R-2 Ms. Derebey stated that R-2 seemed to be the proper place for them. Ms. Guernsey agreed but as a conditional use. Ms. Derebey asked why a conditional use rather than permitted use. Ms. Guernsey explained that a conditional would provide the public an opportunity to comment. Mr. Dolan summarized the conditional use criteria. Ms. Derebey and Ms. Ninen agreed that it should be a conditional use. Mr. Pasin disagreed.

ADJOURNMENT

MOTION: Move to adjourn. Derebey / Ninen – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session and Public Hearing
March 6, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Theresa Malich, Jill Guernsey, Joyce Ninen, Jeane Derebey and Dick Allen. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

APPROVAL OF MINUTES

MOTION: Move to approve the minutes of February 7th, 2008. Ninen/Allen – Motion passed unanimously.

Discussion followed on the minutes of February 21, 2008. The following changes were suggested by Ms. Ninen and agreed to by the commission.

On page 1 change Mr. Atkins *asked* to Mr. Atkins *stated*.

Page 2 add *that RB-1 was appropriate*.

Typo on page 2 *Soundview*.

Page 3 change *than* to *then*.

Page 3 remove second that

Talking point 2 – replace *with talking point #2* with *that non conforming structures comply with as many applicable codes as possible*.

Page 3, add *the structure*.

Remove *Ms. Malich agreed suggesting that there would be no need to further discuss this item*.

MOTION: Move to approve the minutes with the changes discussed. Ninen/Guernsey – Motion passed unanimously.

WORK-STUDY SESSION

- 1. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments.**

Senior Planner Jennifer Kester went over the proposed changes to the ordinance as a result of the previous meeting. She noted that the council has passed ordinance 1122 which allows for reconstruction of non conforming structures due to acts of nature. Ms. Kester stated that due to the extent of the requirements in this section it should probably say that there is a specific permit necessary for a non conforming use and/or structure. She then went over the section on nonconforming uses of land. She stated that the commission had been interested in what codes would have to be met in order to rebuild

and Ms. Kester referred them to her staff report where it listed the codes that may be used for review.

Mr. Pasin asked about the eight codes and would there be a problem with concurrency. Ms. Kester explained that there is an engineering clause that allows for use of their previous concurrency for five years. Mr. Atkins clarified that if the city was under a moratorium and the use was completely destroyed it would not affect their ability to rebuild. Ms. Kester confirmed that was correct. Ms. Guernsey asked about the sign ordinance and it was clarified that they may need to bring the sign into compliance. She then asked about the reference to Chapter 17.01 and asked if it should be Title 17 and Ms. Kester said she would check the reference.

Mr. Pasin asked about page 1 where it talks about a replacement value, and asked why use replacement value instead of the square footage of the structure? Ms. Kester said that in the past this was how we measured non conformity. He asked how the replacement value is determined and Ms. Kester explained how it is determined in the building code. Mr. Pasin thought the replacement value was subjective. Ms. Kester explained that she thought that it was replacement value because it could be just a wall that does not involve any square footage. Mr. Pasin then asked about the term "lifetime". Mr. Dolan stated that that section is only for when an owner wants to voluntarily demolish his structure. Mr. Pasin stated that he was concerned about using both terms "use" and "structure" and Mr. Dolan explained that it is done intentionally as they are two very different things. Mr. Pasin then asked what does "otherwise lawful" mean in 17.68.040 and Ms. Kester explained that it may be in violation of fire codes. Mr. Pasin asked if .040 (a) should say "currently" in effect. Everyone thought it was fine as it was.

Ms. Derebey thought maybe there should be a reference to "for the purpose of remodeling" and Ms. Kester said that it would be difficult to determine their intent in demolishing a structure. It was decided to perhaps change intentional destruction to intentional alteration. Ms. Kester then went over the proposed order of the sections.

Ms. Derebey suggested that the discontinuance of nonconforming structures and uses be changed to uses and structures and Ms. Kester agreed.

Ms. Kester pointed out the statement that nonconformities shall comply with all other applicable codes to the extent possible. Mr. Pasin asked about the requirement to comply with applicable codes and gave an example that if part of the building is destroyed and you have to have it meet design (i.e., historic windows) and then the rest of the building does not have those types of windows. Ms. Kester went over various scenarios and that it may be difficult to determine what is the extent possible in a theoretical manner without an actual application to review. Mr. Dolan addressed the historic window solution and stated he couldn't imagine requiring three windows to look different from the rest of the building. Ms. Guernsey thought that the previous discussion was that they had to make application within one year not that it had to be

completed. Ms. Kester referred her to ordinance 1122 on page four where it states that the application had to be made within a year.

Chairman Malich called a 5 minute recess at 6:56. The meeting was reconvened at 7:04 p.m.

PUBLIC HEARING

1. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.

Ms. Kester went over the request by City Council for removal of the Mixed Use District overlay. She explained the two options; Option A, removal of the overlay entirely and Option B, to implement a new mixed use zone which would be a harmonization of the uses allowed in the MUD overlay and underlying zones. Ms. Kester highlighted the changes. She stated that staff is also recommending a new definition of townhouse in order to implement the standards in the MUD zone.

Chairman Malich opened the public hearing at 7:10 p.m.

Don Wilcox, Burnham Drive, presently zoned B-2 with the MUD overlay. Mr. Wilcox asked how this would affect his property. Ms. Kester pointed out his parcel and explained that if the MUD overlay was removed his property was B-2, if it was the new mixed use zone, the uses would be the same but some of the performance standards may change.

Mark Shoens, 2002 Sullivan Drive NW – Mr. Shoens stated that he owns property on Burnham Drive NW and have been waiting for water, sewer and traffic concurrency. He said he was trying to figure out if he was going to lose some ability to develop his property. Ms. Kester said that he was zoned R-1 with an MUD overlay, she explained the current standards and the two options being presented tonight. He asked why they wanted to remove the overlay and Ms. Kester explained. Mr. Shoen expressed that he would prefer Option B.

Jerry Larimore, 4710 Gay Rd. Tacoma WA – Mr. Larimore stated that he owns property along Burnham Drive and that it sounds like taking something if Option A were implemented so he would prefer Option B. He asked about the tax implications. Ms. Kester explained that without knowing how Pierce County assesses the property now, she couldn't answer. She continued by saying it would depend on if the assessor treasurer currently takes the overlay into consideration.

Chairman Malich closed the public hearing at 7:20 p.m.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments

Chairman Malich opened the public hearing at 7:21 p.m.

Senior Planner Jennifer Kester explained that the proposal is to change the nonconforming use and structures section of code. Ms. Kester explained what this section of code pertains to. She stated that the council recently passed an ordinance that nonconforming residential uses in the R-2 zone and that use burned down or was destroyed by some other act of nature, 100% of it can be rebuilt. She explained what the previous code had stated. She continued by explaining that the City Council asked that the Planning Commission examine whether that should apply to all zones rather than just R-2. She went over some of the changes that would be implemented with this ordinance.

George Pollock, 2808 Harborview Drive – Mr. Pollock said he was very thankful for the passage of Ordinance 1122 and was concerned by the remodel portion of the ordinance. Ms. Kester explained that replacement value only applied to things that would require a building permit, not carpets, lighting, etc. Ms. Kester stated that there were no provisions in today's codes for remodel of nonconforming structures and that this proposal would at least allow for it.

Due to the arrival of additional interested citizens, Chairman Malich re-opened the public hearing on Item 1, Removal of Mixed Use District overlay and determination of appropriate underlying zoning, at 7:25 p.m.

Wade Perrow, 9119 N Harborview Drive – Mr. Perrow stated that he agreed with the idea of removing the MUD overlay. He continued by saying that there are certain elements that can't just be removed.

Jill Guernsey explained the options in the proposal. Mr. Perrow said that he wasn't sure we needed another zone in the city. He asked that the Planning Commission make sure that the city has an adequate employment base.

Ms. Kester assured Mr. Perrow that the uses currently allowed in the overlay would be allowed in the mixed use zone. He stated he didn't think it was the best zoning for the city. He said that he had marked up the matrix to try to illustrate what he felt the zone should be for the area. Ms. Guernsey asked which of the current zoning districts he would suggest for the area. He explained why he thought it should be zoned differently and that this was an opportunity to really examine what should happen in this area. Harris Atkins asked if anyone had further comments after hearing Mr. Perrow's comments.

Mr. Larimore said that he thought that in a mixed use zone you could accomplish what Mr. Perrow was talking about but he also felt that transitioning between zones sounded nice as long as you do not down zone someone's property. Mr. Pasin asked how he envisioned his property being used and he said he didn't know.

Chairman Malich closed the first and second hearing at 7:40 p.m.

3. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district.

Dick Allen and Theresa Malich recused themselves from this item.

Ms. Kester went over the proposal and the proposed changes within it.

Vice Chairman Harris Atkins opened the public hearing at 7:45 p.m.

There being no one wishing to testify Mr. Atkins closed the public hearing at 7:47.

Mr. Atkins called a short recess at 7:48 p.m. The meeting reconvened at 7:50 p.m.

WORK-STUDY SESSION

3. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district.

Ms. Kester noted that there is a technical amendment to go along with this amendment that addresses how we calculate density since we are putting a minimum density in. Mr. Atkins asked if anyone had any reason for not proceeding with asking staff to develop the ordinance. Ms. Guernsey asked if the changing of the density was also part of that and everyone agreed. Ms. Ninen and Ms. Guernsey said they were in favor. Ms. Derebey asked about how density worked and Ms. Kester explained. Ms. Derebey agreed with the proposal. Mr. Pasin said that during previous discussion he had felt that triplexes and fourplexes should just be permitted outright and others had felt differently but he would like to see if anyone had changed their opinion. Ms. Ninen said that they had discussed this at the last meeting and she felt it had to be conditional. Ms. Derebey agreed.

MOTION: Move to forward a recommendation to the City Council to add triplexes and fourplexes as conditional uses in the R-2 zone, set a minimum density of 4 dwelling units per net acre and increase the allowance for impervious coverage from 40% to 60% of the total lot area. Guernsey/Ninen – Motion carried unanimously.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments

Ms. Kester went over the items that they had discussed at the work study session. She asked if 50% replacement value was the right trigger. Mr. Atkins brought up the testimony of the gentleman who was thinking about remodeling his unit interior. Ms. Kester stated that replacement costs are only those things necessary to build the building, not cosmetic things. Mr. Dolan suggested that they make interior remodels exempt. Mr. Atkins stated that he knew of a case where a family moved into a home

where there was no basement so they excavated so they had a full basement and had to put in a new foundation, this would have exceeded the 50%. He added that someone should not be penalized for remodeling their home. Mr. Atkins asked Ms. Malich if she could have done what she did to her home. Ms. Derebey said that Ms. Malich didn't really do any demolition because she didn't really tear anything down. Ms. Kester said that perhaps siding would be part of a replacement cost. Mr. Pasin said that if someone wants to put in new windows, roof, etc they could exceed 50%. Ms. Kester pointed out the section on repair and maintenance. Mr. Pasin said that maybe the question is what is remodel. Ms. Kester gave an example. Mr. Dolan stated that we had a customer with a nonconforming structure that they were going to tear down two walls in 2007 and replace them and then tear down two more in 2008 and replace them. Ms. Malich explained her situation when she tore down her garage that was nonconforming. Ms. Kester said that she really felt that there should be an interior remodel exemption, but the question remains as to how much exterior work is okay.

Mr. Pasin felt that they were trying to put together something that deals with the ugly and have lost sight of the people trying to maintain and update their properties. Mr. Dolan stated that every change here actually makes the code more liberal not more difficult. Discussion followed on the difference between remodel and repair and maintenance. Mr. Atkins said you might have a facility that was nonconforming because it didn't meet setbacks and this might prevent someone from remodeling their home. Ms. Kester explained that if you had a structure that met the front and side but not the rear, then just the portion of the house that is in the setbacks would be nonconforming. Ms. Ninen asked about solar panels and skylights would that be considered a structural change. Mr. Dolan pointed out the provision that nonconforming structures can be remodeled as long as it doesn't increase the nonconformity. Ms. Kester explained it further. Mr. Dolan pointed out that the rebuild provision, if it's damaged by an act of God, is extremely liberal. Mr. Atkins asked what percentage of homes within the historic district were nonconforming and Ms. Kester said that perhaps 75%. She noted that we have approved lots of remodels for nonconforming structures because it doesn't expand the nonconformity. Ms. Guernsey asked if there was a variance provision with this and Ms. Kester went over some variance scenarios. Mr. Pasin said that he felt that the ordinance needed to be broader. Ms. Derebey felt that with the interior remodel exemption this had been hammered out. Mr. Allen asked what if someone has a rundown house and they want to build something new. Mr. Dolan said that they could rebuild but they would have to meet the code or get a variance. Mr. Allen felt that we should appreciate that someone wants to build something new. Ms. Ninen stated that if someone had an old house maybe someone should get it listed as a historic structure. Ms. Guernsey said that she would like to see additional language including what they had discussed.

Ms. Kester said that she would come back at the next meeting with actual code language.

MOTION: Move to direct staff to prepare an ordinance incorporating the changes discussed tonight for our final consideration at the next feasible meeting. Atkins/Derebey –

Mr. Atkins stated that his intent was to include an exemption of interior remodeling and the other items that Ms. Kester had noted within the text. He stated that it is difficult to legislate common sense and asked the commission members to give this issue some thought for further discussion at the next meeting. Mr. Pasin felt that they should be cautious and that just because something gets put within the setbacks it doesn't necessarily improve views. Mr. Allen said that views are not really a consideration.

Motion passed unanimously.

1. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.

MOTION: Move to defer this item to the next meeting. Ninen/

Ms. Kester went over the things that were still left to discuss within this quarter. Mr. Atkins went over what the options were and what some of the public had said tonight. He asked what everyone else thought and if they wanted to examine other zones. Ms. Derebey, Ms. Malich and Ms. Ninen stated they liked the new Mixed Use zone. Mr. Pasin said he wanted to discuss it further. Ms. Guernsey thought that Mr. Perrow had a good idea to reexamine the entire area but the City Council really doesn't want the commission to take the time to do that right now. She stated that she prefers Option B assuming that we need to do something now. Mr. Allen said that if it's just a fix then he would prefer Option B unless we want to take on a larger task. Mr. Atkins said he would go with the mixed use Option B, he didn't think that the area was big enough to warrant several different zones.

Ms. Ninen's motion died for lack of a second.

MOTION: Move to forward a recommendation to the City Council for the text amendment as written on the condition that the ordinance is brought back for review.

Ms. Kester pointed out that it is really an area-wide rezone and Mr. Atkins withdrew his motion.

MOTION: Move to have staff prepare an area wide rezone for the mixed use district with the currently configured boundaries. Atkins/Ninen – Motion passed unanimously.

ADJOURNMENT

MOTION: Move to adjourn at 8:50 p.m. Ninen/Derebey – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
March 20, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Jeane Derebey and Dick Allen. Commissioners Theresa Malich, Jill Guernsey and Joyce Ninen were absent. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

1. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments.

Senior Planner Jennifer Kester went over the changes made to the draft ordinance since the March 6, 2008 public hearing on the amendments. She ran through the six areas where she had made changes based on comments at the last meeting.

Discussion was held on interior remodels and that they should not increase the nonconformity of the structure. Commissioner Harris Atkins asked about the applicability of the section and Ms. Kester answered that this section did not apply to nonconformities in the building code but rather to Title 17.

Commissioner Jim Pasin voiced his concern with the 50% limitation over the lifetime of the structure. Mr. Atkins said that he felt that Item C was easier to understand than D and perhaps we should eliminate one and Ms. Derebey said no, she felt they needed both. Ms. Kester explained the importance of spelling out in any nonconformity section how the nonconformity is supposed to go away. Ms. Derebey felt that there should be two separate clauses. Mr. Atkins pointed out that by saying "eliminating nonconforming status" implies that it's conforming. Ms. Kester agreed that it could be written better. Mr. Pasin said that he didn't think they were looking at what this could mean if we have this threshold over the lifespan of the building. Mr. Atkins expressed that he had done research with other cities and this type of code was typical and in fact this code was more liberal than most. Mr. Allen also felt that this section of code was a terrific burden on the property owner. Ms. Kester went over things that don't trigger replacement costs, highlighting that most things will not trigger this section of code.

Mr. Pasin asked about the section on enlargement of a nonconforming use being prohibited. Ms. Kester explained that if there were two tenants and one was conforming and one was nonconforming we would not allow the nonconforming tenant to expand or move. Mr. Dolan explained that this was not tightening up any regulations but rather making them more liberal. Mr. Atkins asked about the number of nonconformities in the city and Ms. Kester answered that most towns have expanding numbers of nonconforming structures and uses. Mr. Pasin again expressed that he didn't feel that people should be penalized for having a nonconforming use and Mr. Atkins explained

that it is not penalizing people it is making what they do in the future comply, they do not have to do anything if they don't want to.

Mr. Pasin asked what was meant by the section on damage by greater than 50%. Ms. Kester answered that it is based on replacement costs. She gave an example that if you have lost a wall, you have the lost the value of the wall. Ms. Derebey asked if replacement value would be better than loss value. Ms. Kester said she was willing to make a note and consult the City Attorney to see if that wording was appropriate. Mr. Pasin asked about the section on when a use is considered discontinued, where it says "the structure, or a portion of the structure is not being used for the use allowed by the most recent permit." Ms. Kester said that she could ask the City Attorney if there were words that could be added to make it clearer so that the existing nonconforming use could not cease using a portion of a building and then begin using it again so as to assure that the vacant space loses it's status not the occupied portion. Mr. Pasin asked about number three and if that conflicts with the rule that says if it's discontinued more than a year. Ms. Kester said that it does not and if you leave a nonconforming use for less than a year then you can go back and continue the use.

Mr. Atkins asked about number four and it's intent. Ms. Kester explained when it would apply. He then asked about Item D and verified that Ms. Kester would work on the language.

Ms. Kester asked if they wished to make a recommendation based on the clarification of some of the language.

MOTION: Move that with the clarifications discussed tonight that we recommend these amendments be given to the City Council for their study. Derebey/Allen – Motion carried.

**2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 -
Neighborhood Design Areas.**

Mr. Atkins stated that he was thinking that they would discuss two aspects of this issue; the methodology and then how you deal with adjacent zones. He suggested that we limit the discussion to 30 minutes and then finish with Item 3. Ms. Kester then went over the design manual to explain the organization. She asked how they wanted to tell the public which sections of the design manual apply to their area and did they want to have a matrix or did they want to have it on each requirement what areas it applies to. She also suggested that there was another way which was to take one design manual and make eight design manuals, one for each design area. She also pointed out that they may want to get the DRB input on that. Mr. Pasin talked about how some of the design requirements were difficult to administer for fill in development. Mr. Atkins felt that as they went through the process it may become clearer as to what is the best communication tool. Ms. Kester explained that they had chosen to do the Northwest Industrial area first and perhaps once they decide what is okay in that area then staff can suggest what standards would not be necessary. She also said that when they get

to more complex areas like the Westside they might have to approach it differently. Discussion followed on a possible design matrix and Ms. Kester explained the layout of the manual and how the staff uses a checklist.

Vice Chair Harris Atkins called a five minute recess at 7:25 p.m. The meeting was reconvened at 7:30 p.m.

Mr. Atkins said that we will discuss this further at the next meeting and hopefully we will have some Design Review Board members at the next meeting. Ms. Kester said that staff will go out and take some pictures to begin the discussion on what should apply in the Northwest Industrial area.

Mr. Allen asked if we could look at other areas and Ms. Kester said that she felt that this was more of a matter of deciding which of our current standards apply where rather than creating any new standards. Mr. Atkins said that what she had suggested were good ideas and then this could be discussed further.

Mr. Pasin would also like to discuss setbacks, parking within the discussion of the neighborhood design areas. Ms. Kester said that we would not be discussing parking and setbacks as those were not part of the design manual.

The discussion then moved to the interface areas and what would happen within those areas. She explained that the standards may be so different from area to area and asked if they wanted to provide some transition or are the delineations fine. Mr. Pasin said that he felt that the big challenge in this was talking about residences. Ms. Derebey said that we also are not just talking about residences it's residential coexisting with commercial and having it reflect the neighborhood. Mr. Dolan said that the point was that we have design areas that are adopted and now we have to figure out how to implement them. Ms. Kester said that once we develop the standards we may discover that there is not enough of a difference between the areas.

Mr. Pasin gave an example of zone transition and Ms. Kester explained that it is site specific. Ms. Derebey said that the underlying zoning is what is going to help this issue and Mr. Allen agreed. Mr. Atkins felt that there should be some mechanism for when there is a problem. He thought that there should be a way that they can choose to go to the DRB. Mr. Allen agreed that there has to be some rational way of dealing with issues, he also felt that roads were good separators between areas but it mattered if they were large roads or small roads.

3. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 - Appropriateness of RB-1 zoning district locations and allowed uses in the RB-1 zone.

Ms. Kester stated that there were two parts to this. She stated that we could hold a public hearing where we solicit some input from property owners. She asked if they wanted to continue this discussion later this year when they have a starting point for public comment. Mr. Dolan said that perhaps they should have the public hearing

before they even discuss the matter. Ms. Kester pointed out the e-mail from Commissioner Joyce Ninen on the RB-1 issue. Mr. Atkins asked why there was RB-1 and RB-2. Mr. Pasin thought that the RB-1 enabled some of the original retail areas to continue to exist and RB-2 was developed to enable the community to have more of a neighborhood business environment. Mr. Atkins said that he had looked at some of the allowed uses along with some of the properties and it does seem like it's an interesting collection and some of them seem like they should have a more intense use.

Ms. Kester felt that they should really look at the issues identified when they did the matrix, figure out what the zoning should be for the parcels that don't seem to fit with RB-1 and leave the rest, then have a public hearing. Ms. Derebey pointed out that they had done some of that at the last meeting and asked what they needed to do to move to a public hearing. Ms. Kester explained that it could be site by site as some we may know what we want to change it to and some we may not. Mr. Allen said we will get some lopsided testimony. Mr. Dolan said some areas need some specific recommendations. Mr. Allen asked if they wanted to zone them for what is happening on the site or do we want to invent the future. Mr. Atkins gave some examples of sites and what may be good. Ms. Derebey clarified that they either have to make a suggestion prior to the hearing or just ask for comments. She stated that she felt they needed to make suggestions prior to the hearing. Mr. Pasin said he felt they should make suggestions prior. Everyone agreed. Ms. Kester reminded everyone how this subject came up in the first place and that the Planning Commission had suggested that they look at the RB-1 zones.

Discussion was held on the parcels in Purdy zoned RB-1. Mr. Pasin said that he felt it should be RB-2, then changed his mind to B-2 so it would match the other side of the road. Mr. Dolan asked what the county zoning was and Ms. Kester said that it was Neighborhood Center because they are mimicking our zoning as we asked them to do. Ms. Derebey said she could see that it should serve as a transition. Ms. Kester then checked the land use designation and it was Public Institutional so it may require a comp plan amendment. Mr. Pasin said he was okay with RB-2 or B-2. Mr. Atkins said he thought it should be RB-2 or B-1.

Ms. Kester said that given the discussion, maybe they were not ready to have a public hearing on this issue, as we are going to have to work through these areas. Mr. Atkins suggested that they go through the list and everyone come back to the next meeting with suggestions to help the discussion.

Ms. Kester then went over the schedule and the three housekeeping amendments that staff was proposing for direct consideration by the council. No one saw any problems with direct consideration. She went over the items on the work program for the second quarter. She asked if they wanted to continue the RB-1 discussion at an April meeting. Mr. Atkins asked if they were still going to discuss the Planning Commission Comprehensive Plan amendments. Ms. Kester said she needed more detail by the end of the April 3rd meeting in order to accomplish this. It was also decided that this RB-1 item would be discussed at the April 3rd meeting.

Mr. Atkins said that he would send out an e-mail reminding each person their homework.

ADJOURN

MOTION: Move to adjourn at 8:50 p.m. Derebey/Allen