

**Gig Harbor  
City Council  
September 22, 2014  
5:30 p.m.**



**AGENDA**  
**GIG HARBOR CITY COUNCIL MEETING**  
**Monday, September 22, 2014 – 5:30 p.m.**

**CALL TO ORDER / ROLL CALL:**

**PLEDGE OF ALLEGIANCE:**

**CONSENT AGENDA:**

1. Approval of City Council Minutes Sep. 8, 2014.
2. Liquor License Action: a) Application: Safeway.
3. Receive and File: a) Planning/Building Committee Minutes July 7, 2014; b) Public Works Committee Minutes Sep. 8, 2014; c) Planning/Building Committee Minutes Sept. 16, 2014.
4. Policy for Council Appearance via Speakerphone.
5. Resolution No. 971 – Amendments to Flexible Spending Plan.
6. Public Works Operations Center Wetland Review – Consultant Services Contract.
7. Public Works Shop Roof Replacement – Small Public Works Contract Award.
8. East Tank Design Improvements – Consultant Services Contract.
9. Proclamations: Croatian Heritage Day.
10. Approval of Payment of Bills Sep. 22, 2014: Checks #76504 through #76538 in the amount of \$731,099.48.

**PRESENTATIONS:**

1. Wastewater Treatment Plant Award – Darrel Winans and WWTP Crew.
2. City Tourism Video – Karen Scott.
3. 2014 Trolley Service – Tina Lee.
4. Chamber of Commerce - U.S. Open Update – Carola Filmer and Al Abbott.

**OLD BUSINESS:**

1. Public Hearing, First Reading and Adoption of Ordinance No. 1301 – Moratorium on Marijuana Uses.

**NEW BUSINESS:**

1. Public Hearing and First Reading of Ordinance - Proposed Amendments to GHMC 17.99.545 - "Historic District Railings."
2. Public Hearing and First Reading of Ordinance - Proposed Amendments to GHMC relating to Trees, Landscaping, and Vegetation.

**CITY ADMINISTRATOR / STAFF REPORT:**

1. AWC Wellness Program Mini-grant.

**PUBLIC COMMENT:**

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

Croatian Heritage Day Proclamation.

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Joint City Council / Planning Commission Meeting: Mon. Oct. 6<sup>th</sup> at 5:30 p.m.
2. Public Works Committee: Mon. Oct. 13<sup>th</sup> at 4:00 p.m.
3. Budget Worksessions: Mon. Oct. 20<sup>th</sup> and Tue. Oct 21<sup>st</sup> at 5:30 p.m.

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

**ADJOURN:**





















**DRAFT MINUTES**  
**GIG HARBOR CITY COUNCIL MEETING**  
**Monday, September 8, 2014 – 5:30 p.m.**

**CALL TO ORDER / ROLL CALL:**

[Mayor - Jill Guernsey: Present](#)  
[Council Member - Timothy Payne: Present](#)  
[Council Member - Steven Ekberg: Present](#)  
[Council Member - Casey Arbenz: Present](#)  
[Council Member - Rahna Lovrovich: Present](#)  
[Council Member - Ken Malich: Present](#)  
[Council Member - Michael Perrow: Present](#)  
[Council Member - Paul Kadzik: Present](#)

**PLEDGE OF ALLEGIANCE:**

**CONSENT AGENDA:**

1. Approval of City Council Minutes Aug. 11, 2014.  
2. Correspondence / Proclamations: a) Alzheimer's Awareness Month;   b) Constitution Week;   c) Prostate Cancer Awareness Month.  
3. Point Fosdick Sidewalk Project – Construction Testing Services Contract and Contract Amendment/HDR Engineering.  
4. Harbor Hill N-2 Street Names.  
5. Cartegraph Work Order and Asset Management Software Migration – Purchase Authorization.  
6. Survey and Legal Description Creation – Consultant Services Contract.  
7. Eddon Boat Parcel – Grant Agreement with the Dept. of Ecology.  
8. Approval of Payment of Bills Aug. 25, 2014: Checks #76178 through #76280 in the amount of \$334,034.24.
9. Approval of Payment of Bills Sep. 8, 2014: Checks #76281 through #76404 in the amount of \$643,293.76.
10. Approval of Payroll for the month of August: Checks #7352 through #7372 and direct deposits in the amount of \$371,596.67.



MOTION: Move to adopt the Consent Agenda as presented.

[Council Member - Steven Ekberg: Motion](#)  
[Council Member - Casey Arbenz: 2nd](#)  
[Council Member - Timothy Payne: Approve](#)  
[Council Member - Steven Ekberg: Approve](#)  
[Council Member - Casey Arbenz: Approve](#)  
[Council Member - Rahna Lovrovich: Approve](#)  
[Council Member - Ken Malich: Approve](#)  
[Council Member - Michael Perrow: Approve](#)  
[Council Member - Paul Kadzik: Approve](#)

**PRESENTATIONS:**

1. [State of the Library – Neel Parikh](#). Ms. Parikh gave an updated on the many successful activities and programs available at the Pierce County Branch.
2. [Alzheimer's Awareness Month – Christopher D'Attilio and Vicky Parker](#). No one was available to accept the proclamation, and so Mayor Guernsey briefly described the effort to raise awareness of this disease.
3. [Prostate Awareness Month](#). Kerry Keily, CEO Tapco Credit Union, accepted the proclamation for Prostate Awareness Month. He shared his personal experience with prostate cancer and stressed the importance of early detection and yearly exams.

**OLD BUSINESS:**

1. [Second Reading of Ordinance – Updates to Marijuana Code 17.63](#).   Senior Planner Lindsey Sehmel presented the background for this ordinance and explained the process for Council to deliberate on each proposed amendment.

Councilmembers debated whether to move forward with consideration of the amendments or to discuss an extension of the existing moratorium in order to consider the potential appellate decisions that could impact the city's decisions.

With input from the City Attorney and Staff, a motion came forward and was discussed further prior to the vote.

**MOTION:** Move to direct staff to develop documentation for a new moratorium based on possible future amendments or a potential ban based on the appellate court or legislative decisions, for twelve months, and that it should go back to the Planning Commission for review.  
[Council Member - Timothy Payne: Motion](#)  
[Council Member - Michael Perrow: 2nd](#)  
[Council Member - Timothy Payne: Approve](#)  
[Council Member - Steven Ekberg: Approve](#)  
[Council Member - Casey Arbenz: Approve](#)  
[Council Member - Rahna Lovrovich: Approve](#)  
[Council Member - Ken Malich: Disapprove](#)  
[Council Member - Michael Perrow: Approve](#)  
[Council Member - Paul Kadzik: Approve](#)

**NEW BUSINESS:** None scheduled.

**CITY ADMINISTRATOR / STAFF REPORT:**

[Farmers Market Update](#). City Administrator Ron Williams reported that the city is moving forward with an effort to update and improve the farmers market downtown. A Request for Qualifications is being drafted to solicit a person or group to run the market next summer. In addition we are working on a survey asking the public what they want to see in a downtown farmers market. Councilmembers discussed the topic.

[Jerisich Dock Water / Power Update](#). Public Works Director Jeff Langhelm provided an update on the efforts to install water and power at the dock. He explained that more permits than anticipated

were required. He said he anticipates construction to bring water and power to the dock to begin in April or May of 2015.

**PUBLIC COMMENT:**

[Arvid Anderson](#) – 1275 Camus Drive, Fox Island. Mr. Anderson, an artist, announced the upcoming Open Studio Tour September 19<sup>th</sup>. He passed out brochures.

[Sarah Sexton](#) – 10915 65<sup>th</sup> Ave. NW. Ms. Sexton thanked Council for their careful and thorough handling of the marijuana issue. She asked that they not confuse a vote for I-502 for a vote for a retail store in Gig Harbor.

[Maria Nordlund](#). Ms. Nordlund thanked Council for this decision, saying this is not good for the City of Gig Harbor; people can go somewhere else to buy it.

[John Sexton](#) – 10915 65<sup>th</sup> Ave. NW. Mr. Sexton pointed out that democracy and the vote on I-502 has already been satisfied and asked that the Council puts the safety of the community ahead of the rights of business owners. He said the decision from the Attorney General allows an outright ban and encouraged the city to go forward with the ban.

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

[Civic Center Seating Donation](#). Mayor Guernsey announced the lovely new seat located in the Public Works / Planning Department donated by a local woodworker.

[Councilmember Malich](#) explained that he is not an advocate of marijuana and that he just wants to see it regulated the same as alcohol and tobacco.

[Councilmember Perrow](#) reported that he attended the recent Tacoma Narrows Airport Advisory Board meeting and there is a lot of activity in preparation for the US Open next year.

[Mayor Guernsey](#) announced that she and Ron Williams attended an event at Joint Base Lewis McChord where several members of the military said how impressed they are with Gig Harbor and the strong relationship we have with the 201<sup>st</sup> Battlefield Surveillance Brigade.

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Lodging Tax Advisory Committee: Tue. Sep. 9<sup>th</sup> at 7:30 a.m.
2. Finance / Safety Committee: Mon. Sep. 15<sup>th</sup> CANCELLED.
3. Planning / Building Committee: Tue. Sep. 16<sup>th</sup> at 5:30 p.m.

**EXECUTIVE SESSION:** Council adjourned to Executive Session at 7:13 p.m. for approximately fifteen minutes to discuss property acquisition per RCW 42.30.110(1)(c). Possible action may be taken.

Council returned to regular session at 7:29 p.m.

**MOTION:** Move to authorize the Mayor and City Administrator to continue negotiation for property acquisition as described in Executive Session.

[Council Member - Paul Kadzik: Motion](#)

[Council Member - Ken Malich: 2nd](#)

[Council Member - Timothy Payne: Approve](#)

[Council Member - Steven Ekberg: Approve](#)  
[Council Member - Casey Arbenz: Approve](#)  
[Council Member - Rahna Lovrovich: Approve](#)  
[Council Member - Ken Malich: Approve](#)  
[Council Member - Michael Perrow: Approve](#)  
[Council Member - Paul Kadzik: Approve](#)

**MOTION TO ADJOURN AT 7:29 p.m.**

[Council Member - Paul Kadzik: Motion](#)  
[Council Member - Michael Perrow: 2nd](#)  
[Council Member - Timothy Payne: Approve](#)  
[Council Member - Steven Ekberg: Approve](#)  
[Council Member - Casey Arbenz: Approve](#)  
[Council Member - Rahna Lovrovich: Approve](#)  
[Council Member - Ken Malich: Approve](#)  
[Council Member - Michael Perrow: Approve](#)  
[Council Member - Paul Kadzik: Approve](#)

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Jill Guernsey, Mayor

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Molly Towslee, City Clerk



NOTICE OF LIQUOR LICENSE APPLICATION

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

TO: MOLLY TOWSLEE, CITY CLERK
RE: NEW APPLICATION

DATE: 9/02/14

UBI: 600-643-518-001-0369

License: 418517 - 1U County: 27
Tradename: SAFEWAY #
Loc Addr: 4803 POINT FOSDICK DR NW
GIG HARBOR WA 98335-1710
Mail Addr: PO BOX 29096 MSC 6531
PHOENIX AZ 85038-9096
Phone No.: 425-201-6445 BROOKE TACIA

APPLICANTS:
SAFEWAY INC.
EDWARDS, ROBERT LYNN 1955-08-15
FOX, BRADLEY S 1955-12-31
GORDON, ROBERT A 1951-09-14
JOHNSON, DONALD RAY 1950-08-01
MAXWELL, GREGG ALAN 1958-02-24

Privileges Applied For:
GROCERY STORE - BEER/WINE

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



## Planning Department

<b><u>MEETING TYPE</u></b>	Planning/Building Committee
<b><u>MEETING DATE</u></b>	7/7/14
<b><u>SCRIBE</u></b>	Meagan Fabiani
<b><u>PRESENT</u></b>	Staff Lindsey Sehmel, Councilmembers Paul Kadzik, Michael Perrow, Casey Arbenz
<b><u>START TIME</u></b>	5:30 PM
<b><u>ADJOURN</u></b>	6:35 PM

### Agenda topics

<b>DISCUSSION</b>	Item 1: Waterfront Millville- Requested Code Amendment	
	Staff presented private application for allowance of restaurants 2 & 3 under CUP in Waterfront Millville Zone. Discussions around size and seating options were presented to the applicant.	
<b>DIRECTION</b>	<b>MOTION TIME:</b>	
Planning/Building Committee unanimously recommended	1 <sup>st</sup> Kadzik	
Planning Commission review in late 2014.	2 <sup>nd</sup> Perrow	

<b>DISCUSSION</b>	Item 2: GHMC 17.63 (Marijuana Related Uses)- Code Amendment	
	Staff presented draft ordinance for consideration by City Council on July 14 <sup>th</sup> , 2014. Councilmember Perrow raised additional concerns beyond full Council direction. Committee agreed to request discussion of old business prior to public hearing (marijuana scope of work) on July 14 <sup>th</sup> , 2014.	
<b>DIRECTION</b>	<b>MOTION TIME:</b>	
Directed staff to work with City Clerk to add item to City Council agenda.	1 <sup>st</sup>	
	2 <sup>nd</sup>	

<b>DISCUSSION</b>	Item 3: Gig Harbor 2030- Project Update	
	Staff provided update of progress to Gig Harbor 2030 Comp Plan.	
<b>DIRECTION</b>	<b>MOTION TIME:</b>	
N/A	1 <sup>st</sup>	

<b>DISCUSSION</b>	Item 4: Trees, Landscaping and Vegetation-Planning Commission Recommendation	
	Staff presented signed PC recommendation & explained proposed amendments. Public hearing & 1 <sup>st</sup> reading will be heard in front of Council in September. Councilmember Perrow raised concerns regarding tree replacement requirements for illegally removed trees identified on plans to be retained.	

**MINUTES  
CITY OF GIG HARBOR  
PUBLIC WORKS COMMITTEE  
Monday, September 8, 2014 – 4:00 p.m.  
Public Works Conference Room**

**CALL TO ORDER / ROLL CALL:**

Councilmember Ekberg called the meeting to order at 4:02 p.m.

Public Works Committee present: Councilmembers Ekberg, Lovrovich and Payne.

City Staff present: Jeff Langhelm, Public Works Director; Emily Appleton, Senior Engineer; and Maureen Whitaker, Asst. City Clerk

Scribe: Maureen Whitaker

**NEW BUSINESS:**

1. Tree Removal with Peninsula Light – Verbal Update.

Public Works Director Langhelm stated that City and Peninsula Light staff have been working collaboratively to mitigate possible risks from trees in the City's right-of-way along Peacock Hill Avenue and Harborview Drive. Over the past several years, efforts have been taken to trim these trees to avoid disturbing power lines and interfering with large vehicles. Due to annual trimming, the trees have become a risk to the roadway, pedestrians and utility lines above.

The tree removal project should occur in October or November, as long as weather does not keep crews from completing the work. The duration will be between two and four days. The project area includes Peacock Hill Avenue between Vernhardson Street and Ringold Street, and Harborview Drive between Austin Drive and Burnham Drive. Evaluation on the trees will continue throughout the project and those trees considered a nuisance or risk will be removed. Traffic will be re-routed or limited to one-way traffic during the project, but no significant delays should occur. The project should be completed by mid-November.

Mr. Langhelm said that the work and costs will be shared by Peninsula Light and the City. Peninsula Light's tree-cutting crew, Asplund, will do the cutting, the City crew will chip the trees and dispose of the chippings. Some of the chippings may be placed on the shoulder where the trees are removed, with the remainder of the chippings stored at the City maintenance facility until it can be placed on the appropriate trails.

Mr. Langhelm explained that before work on Peacock Hill area takes place, right-of-way will be verified and staff will contact, via door-knocking, all affected property owners.

The Committee expressed the importance of communicating to the residents and community that the purpose of this work is solely for safety concerns not to improve views.

2. Point Fosdick Sidewalk Project – Verbal Update.

Emily Appleton stated that the work is scheduled to begin on Sept. 15<sup>th</sup>. The contractor will begin work on one side of the roadway then move to the other. There will be minor impacts to traffic during paving. Ms. Appleton stated that she had an unofficial meeting a few weeks ago with the contractor, who stated that they would try to use the shoulder as much as possible to minimize closures. An informational flyer has been sent out to the residents in the area detailing the upcoming work. Work is anticipated to be completed by the end of the year. The city's CMS boards will be utilized as available to alert motorists of traffic impacts. Ms. Appleton also advised the committee that authorization of the construction support services contracts, including materials testing and special inspection with PSI, Inc., construction survey and engineering support with HDR, Inc., is on the Council consent agenda for the September 8, 2014 meeting.

**PUBLIC COMMENT:**

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Public Works Committee Meeting – Monday, Oct. 14<sup>th</sup> at 4:00 p.m.

**ADJOURN:** 4:30 p.m.



**Minutes**  
**City of Gig Harbor Planning and Building Committee**  
**Gig Harbor Civic Center, Planning Conference Room**  
**Tuesday September 16, 2014**  
**5:30 p.m.**

**Due to technical difficulties there is no audio recording of this meeting**

**ROLL CALL**

[Position #3 - Casey Arbenz: Present](#)

[Position #6 - Michael Perrow: Present](#)

[Position #7 - Paul Kadzik: Present](#)

[Staff - Diane McBane: Present](#)

[Staff - Jennifer Kester: Present](#)

[Staff - Lindsey Sehmel: Present](#)

[Staff - Dennis Troy: Absent](#)

[Staff - Peter Katich: Absent](#)

Applicant – Kristin Udem

Applicant – John Hogan

**1. PL-ZONE-14-0005 Performance-based Height Exceptions for Concert Halls, Performing Arts Facilities and Large Format Theaters**

On August 20, 2014, Uptown Gig Harbor submitted an application for a zoning code text amendment to include concert halls, performing arts facilities and large format – Digital Fusion Experience (DFX) theaters in the uses eligible for performance-based height exceptions provided these uses are outside the view basin (Height Restriction Area). Direct consideration by the City Council should be considered.



Planning Director Jennifer Kester gave a brief overview of the proposal.

Representing the applicant, Kristin Udem from Gateway Capital presented their proposed text amendment.

Discussion continued on the proposed amendment. Ms. Kester went over the process for a performance based height exception and the criteria used for granting of the exception.

The committee recommended that this proposal go forward to the City Council for direct consideration.

**2. Overview of 2014 Housekeeping Amendments – Jennifer Kester**

Planning Director Jennifer Kester went over the several housekeeping amendments being proposed for 2014. No action needed.

**3. Gig Harbor 2030 Status Update – Lindsey Sehmel**

Senior Planner Lindsey Sehmel gave the committee an update on the Gig Harbor 2030 process. No action needed.

**4. Pierce County Countywide Planning Policies – Lindsey Sehmel**

Discuss the preferred ratification approach to the Countywide Planning Policies amendment regarding Potential Annexation Areas.



Senior Planner Lindsey Sehmel went over this proposed amendment to the Countywide Planning Policies. Ms. Kester clarified that this item will be sent to the full council for their information but no action is required unless they object.

**OTHER BUSINESS**

Discussion was held on the role of the Planning and Building Committee.

**Adjournment**

The committee adjourned at 6:35



**Business of the City Council  
City of Gig Harbor, WA**

**Subject: Council Attendance at Meetings Via Speakerphone**

**Proposed Council Action: Adopt the Attendance via Speakerphone (AVS) Policy**

**Dept. Origin:** Administration  
**Prepared by:** Molly Towslee  
**For Agenda of:** September 22, 2014  
**Exhibits:** AVS Policy

**Concurred by Mayor:**                      Initial & Date  
**Approved by City Administrator:** RW 9/16/14  
**Approved as to form by City Atty:**                       
**Approved by Finance Director:**                       
**Approved by Department Head:**                     

Expenditure Required	Amount Budgeted	Appropriation Required	N/A

**INFORMATION / BACKGROUND**


The purpose of this policy is to provide guidance the City Council when a Gig Harbor Council Member cannot be physically present at a meeting but wishes to be involved in the discussion and/or decision on a particular agenda item.

**FISCAL CONSIDERATION**

N/A

**RECOMMENDATION / MOTION**

**Move to:** Adopt the Attendance via Speakerphone (AVS) policy as presented.

	<b>CITY OF GIG HARBOR – POLICIES AND PROCEDURES</b>	
	<b>TITLE: City Council Attendance Via Speakerphone (AVS)</b>	
<b>POLICY MANUAL SECTION &amp; NO.</b> A-14-01	<b>EFFECTIVE DATE: 09/22/14</b> <b>REVISED DATE:</b>	<b>APPROVED:</b>

**PURPOSE**

The purpose of this section is to provide guidance to the City Council when a Councilmember cannot be physically present at a meeting but wishes to be involved in the discussion and/or decision on a particular agenda item.

**POLICY**

Councilmembers may appear at a council meeting via speakerphone under limited circumstances. Attendance via speakerphone (AVS) is for the benefit of the City of Gig Harbor and not for the benefit of an individual Councilmember. AVS should be the rare exception, not the rule, and AVS is limited to two times per year per Councilmember. Examples of situations where AVS would be appropriate include, but are not limited to:

- An agenda item is time sensitive, and AVS is needed for a quorum;
- An agenda item is of very high importance to the Councilmember that cannot be physically present;
- It is important for **all** Councilmembers to be involved in a decision, but one Councilmember is unable to be physically present.
- AVS should be limited to one agenda item, not the entire Council meeting.

**PROCEDURE**

1. Councilmembers may attend meetings via speakerphone provided they inform the mayor or city administrator one full working day before the meeting. The reason for AVS shall be presented by the mayor before the councilmember joins the meeting via speakerphone. The councilmember may attend only if the equipment in use is of adequate quality and the councilmember can hear and be heard for all proceedings. In the event of technical difficulties which render the communication unavailable, the councilmember shall be dismissed from the meeting.
2. Councilmembers who attend via speakerphone shall be under the same expectations of all other councilmembers to have reviewed the council packet and to be prepared to discuss all matters of business on the meeting agenda. The councilmember who attends the meeting via speakerphone will be required to bear all expenses or fees if any related to their attendance via speakerphone.
3. Upon joining the meeting via speakerphone, the presiding officer shall state for the record:

"Let the record reflect that at \_\_\_\_\_ o'clock councilmember \_\_\_\_\_ is attending this meeting via speakerphone for agenda item/items no. \_\_\_\_\_ relating to \_\_\_\_\_. Councilmember \_\_\_\_\_ can you hear me? (Response by the councilmember must be clear and audible to proceed). Let the record reflect that councilmember \_\_\_\_\_ who is attending via speakerphone can be heard by all present."

Upon conclusion of the councilmember's attendance via speakerphone the presiding officer will state:

"Thank you councilmember \_\_\_\_\_ for attending the meeting for agenda item/items no. \_\_\_\_\_. Your connection will now be terminated." (Connection will then be terminated). Let the record show that councilmember \_\_\_\_\_'s attendance via speakerphone has now been terminated at \_\_\_\_\_ o'clock."





**Business of the City Council  
City of Gig Harbor, WA**

**Subject: Amendment to Section 125 Flexible Spending Arrangement, Plan Documents**

**Proposed Council Action:**  
Approve Resolution No. 971 adopting amendments to the City's Section 125 Flexible Spending Arrangement Plan Documents.

**Dept. Origin:** Administration  
**Prepared by:** Mary Ann McCool, HR Analyst *mam*  
**For Agenda of:** **September 22, 2014**  
**Exhibits:** Exhibit A – IRS Notice 2013-71  
Exhibit B – Carryover Amendment Plan Documents

**Initial & Date**  
**Concurred by Mayor:** *SM 9/16/14*  
**Approved by City Administrator:** *RW 9/12/14*  
**Approved as to form by City Atty:** *buemail 9/11/14*  
**Approved by Finance Director:** *DP 9/11/14*  
**Approved by Department Head:** *mam*

Expenditure	Amount	Appropriation
Required \$150.00	Budgeted N/A	Required N/A

**INFORMATION / BACKGROUND**

On June 9, 2009, the City Council adopted by Resolution No. 792, a Section 125 Cafeteria Plan for Flexible Spending Accounts to provide for pre-tax flexible spending accounts for health and dependent care expenses as negotiated through the Employees' and Supervisory Guild Contracts. Currently, subscribers have a 2.5 month grace period (into the next plan year) to submit claims from the previous plan year. This amendment to the plan document is to reflect a change to the "use-or-lose" rule, under IRS Notice 2013-71, which now permits up to \$500.00 of unused amounts remaining at the end of a plan year in a health FSA to be carried over into the following plan year. The current 2.5 month grace period will be removed from the plan.

**FISCAL CONSIDERATION**

The fee to adopt this plan amendment is \$150.00.

**BOARD OR COMMITTEE RECOMMENDATION**

N/A

**RECOMMENDATION / MOTION**

**Move to:** Adopt Resolution No. 971 approving the amendments to the City's Section 125 Flexible Spending Arrangement Plan Documents.

**RESOLUTION NO. 971**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ADOPTING AMENDMENTS TO THE CITY'S SECTION 125 CAFETERIA PLAN FOR FLEXIBLE SPENDING ACCOUNTS**

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**WHEREAS**, on June 9, 2009, Council adopted Resolution No. 792 implementing flexible spending accounts for the employees; and

**WHEREAS**, this plan has been amended to reflect a change to the "use or lose" rule, (under IRS Notice 2013-71) which now permits up to \$500.00 of unused amounts remaining at the end of a plan year in a health FSA to be carried over into the following plan year; and

**WHEREAS**, the current 2.5 month grace period will be removed from the plan; now, therefore,

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

Section 1. The City Council hereby approves the Amendment to the City's Flexible Spending Arrangement attached hereto as Exhibit A and incorporated herein, effective retroactive to September 1, 2014. The City Administrator is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the Plan.

Section 2. Because this is an amendment the authorized agents of the City shall act as soon as possible to notify City employees of the adoption of this amendment by delivering to each employee a copy of the Summary Plan Document attached hereto as Exhibit B and incorporated herein.

RESOLVED by the City Council this 22nd day of September, 2014.

APPROVED:

\_\_\_\_\_  
Jill Guernsey, Mayor

ATTEST/AUTHENTICATED:

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

Filed with the City Clerk:  
Passed by the City Council:  
Resolution No. 971



**NOTICE 2013-71 CARRYOVER AMENDMENT**

- Attached: 1) the Plan Amendment, 2) the adopting resolution, and 3) the Summary of Material Modifications (SMM). The SMM (participant notice) must be provided to all health FSA plan participants.
- The carryover Amendment is **optional**
- Employers wanting to amend their 2014 plan must do so by the **last day of the plan year** in which the carryover applies.
- The plan cannot have both the grace period (2.5 months to incur expenses after the plan year ends) and the carryover. Employers must determine whether the grace period option or the carryover provision is better for their participants. This amendment can be used to **remove the grace period and add the carryover** or used to add the carryover (for plans without the grace period).
- Please fill-out the amendment, sign, and return it to [employerservices@flex-plan.com](mailto:employerservices@flex-plan.com)

**FLEXIBLE BENEFITS PLAN  
CARRYOVER AMENDMENT**

**ARTICLE I  
PREAMBLE**

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to **City of Gig Harbor** Flexible Benefits Plan (the "Plan"). The plan sponsor intends this Amendment as good faith compliance with the requirements of these provisions. This Amendment shall be effective on or after the date the Employer elects in Section 2.1 below.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.

**ARTICLE II  
ELECTIONS**

- 2.1 **Effective Date.** The provisions of this Amendment, unless otherwise indicated are effective as of 09/01/2014 (effective date: be sure to note the effective date in the plan year for which you are intending to have the carryover apply. For example, 08/13/2014 for plans intending to carryover unused balances into 2015).
- 2.2 **CARRYOVER OF UNUSED AMOUNTS REMAINING AT THE END OF THE HEALTH FSA PLAN YEAR.**

On October 31, 2013 the IRS released Notice 2013-71 (the "Notice"). The Notice contains modifications to the rules for § 125 cafeteria plans. The Notice modifies the "use-or-lose" rule for health FSAs that is currently set forth in proposed regulations under § 125 of the Internal Revenue Code (the Code). This modification permits § 125 cafeteria plans to be amended to allow up to \$500 of unused amounts remaining at the end of a plan year in a health FSA to be carried over into the following plan year, provided that the plan does not also incorporate the grace period rule. This carryover of up to \$500 does not affect the maximum amount of salary reduction contributions that the participant is permitted to make under §125(i) of the Code (\$2,500 adjusted for inflation after 2012 or a lesser amount as set by the employer). This carryover option provides an alternative to the current grace period rule and administrative relief similar to that rule.

- (1) **City of Gig Harbor** is hereby amending this plan to add the carry over feature as provided by IRS Notice 2013-71 as of the effective date.
- (2) **City of Gig Harbor** is hereby amending this plan to remove the 2 ½ month grace period.

This amendment has been executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name of Employer: \_\_\_\_\_

By: \_\_\_\_\_  
EMPLOYER

**CERTIFICATE OF ADOPTING RESOLUTION**

The undersigned authorized representative of **City of Gig Harbor** hereby certifies that the following resolutions were duly adopted on September 1<sup>st</sup> 2014 (date) and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, that the Amendment to the Plan (the Amendment) is hereby approved and adopted, and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

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

Signed: \_\_\_\_\_

\_\_\_\_\_  
[print name/title]

**SUMMARY OF MATERIAL MODIFICATIONS  
for the**

**City of Gig Harbor**  
Flexible Benefits Plan

**I  
INTRODUCTION**

This is a Summary of Material Modifications regarding the Employer Name Flexible Benefits Plan (the “Plan”). This is merely a summary of the most important changes to the Plan and information contained in the Summary Plan Description (“SPD”) previously provided to you. It supplements and amends that SPD so you should retain a copy of this document with your copy of the SPD. If you have any questions, contact the Administrator. If there is any discrepancy between the terms of the Plan, as modified, and this Summary of Material Modifications, the provisions of the Plan will control.

**II  
SUMMARY OF CHANGES**

*Amending the Plan to add the Carryover Feature.* As of the effective date of this amendment the employer is adding the carryover feature as provided by IRS Notice 2013-71. The carryover feature allows participants to carryover unused amounts remaining in the health FSA at the end of the claims run-out period into the following plan year. The amount that may be carried over is the lesser of the balance in the health FSA as of the carryover date or \$500. Employees with a balance as of the last day of the claims run-out period will automatically receive a carryover amount regardless of whether they have enrolled in a health FSA in the subsequent year. The carryover amount does not affect the maximum salary reduction set aside for the following year; consequently, a participant could have \$500 carried over and elect \$2500 for a total \$3000 benefit. The carryover will apply to claims incurred during the claim filing period. The carryover will occur after the claims run-out period has expired.

*Amending the Plan to Remove the Grace Period.* The employer has amended their cafeteria plan to remove the grace period. The grace period is a period of 2.5 months after the plan year end date which permits plan participants to incur expenses against the prior plan year balance. As of the effective date of this amendment the employer is removing the grace period.





## Business of the City Council City of Gig Harbor, WA

**Subject:** Public Works Operations Center  
Wetland Report and Survey – Consultant  
Services Contract

**Proposed Council Action:** Authorize the Mayor to execute a Consultant Services Contract with AHBL, Inc. for permitting and design assistance related to a wetland report and survey for the Public Works Operations Center in an amount not to exceed \$12,149.00.

**Dept. Origin:** Public Works

**Prepared by:** Jeff Langhelm, PE  
Public Works Director

**For Agenda of:** September 22, 2014

**Exhibits:** Consultant Services Contract  
with Scope and Fee

	Initial & Date
<b>Concurred by Mayor:</b>	JLL 9.17.14
<b>Approved by City Administrator:</b>	RW 9/16/14
<b>Approved as to form by City Atty:</b>	VIA EMAIL 9/16/14
<b>Approved by Finance Director:</b>	BTR 9.16.14
<b>Approved by Department Head:</b>	JDL 9/16/14

<b>Expenditure Required</b>	\$12,149	<b>Amount Budgeted</b>	See Fiscal Consideration	<b>Appropriation Required</b>	\$0
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### INFORMATION/BACKGROUND

The City requested a scope and fee from AHBL, Inc. for wetland review services at the City's Public Works Operations Center site. The proposed work allows for the continuation of design and permitting of the proposed Public Works Operations Center. The proposed consultant services contract from AHBL, Inc. will gather the necessary wetland information for the various aspects of the site development and allow the continuation of the Operations Center project.

### FISCAL CONSIDERATION

Funding for the proposed contract is divided between the following four funds and is noted as such in the 2014 Budget: Parks Development (Fund 109), Streets Capital (Fund 102), Water Capital (Fund 420) and Storm Water Capital (Fund 412).

2014 Budget for Public Works Operations Center	\$ 60,000.00
Anticipated 2014 Expenses:	
Lawhead Consultant Services Contract Expenses for 2014 (Architectural)	\$ (24,870.00)
Landau Consultant Services Contract (Geotechnical)	\$ (22,981.00)
AHBL Consultant Services Contract (Wetland)	\$ (12,149.00)
<b>Remaining 2014 Budget =</b>	<b>\$ 0.00</b>

**BOARD OR COMMITTEE RECOMMENDATION**

The proposed consultant services contract has not been formally presented to a board or committee but is a continuation of the Public Works Operations Center. Project updates have been provided to the Public Works Committee while aspects of this project have been previously approved by the City Council through prior contracts and annual budgets.

**RECOMMENDATION/MOTION**

Authorize the Mayor to execute a Consultant Services Contract with AHBL, Inc. for permitting and design assistance related to a wetland report and survey for the Public Works Operations Center in an amount not to exceed \$12,149.00.

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

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (the "City"), and AHBL, Inc. a corporation organized under the laws of the State of Washington (the "Consultant").

**RECITALS**

WHEREAS, the City is presently engaged in the Design of the Public Works Operations Center and desires that the Consultant perform services necessary to provide the following consultation services; and

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work 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**

1. **Retention of Consultant - Scope of Work.** The City hereby retains the Consultant to provide professional services as defined in this Agreement and as necessary to accomplish the scope of work attached hereto as **Exhibit A** and incorporated herein by this reference as if set forth in full. The Consultant shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this Agreement.

2. **Payment.**

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Twelve Thousand One Hundred Forty-Nine Dollars and Zero Cents (\$12,149.00) for the services described in Section 1 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. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**, unless the parties agree to a modification of this Contract, pursuant to Section 17 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.

**3. 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 subconsultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or subconsultant 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 subconsultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and subconsultants 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.

**4. 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 December 31, 2014; provided however, that additional time shall be granted by the City for excusable days or extra work.

**5. Termination.** The City reserves the right to terminate this Agreement at any time upon ten (10) days written notice to the Consultant. Any such notice shall be given to the address specified above. In the event that this Agreement is terminated by the City other than for fault on the part of the Consultant, a final payment shall be made to the Consultant for all services performed. No payment shall be made for any work completed after ten (10) days following receipt by the Consultant of the notice to terminate. In the event that services of the Consultant are terminated by the City for fault on part of the Consultant, the amount to be paid shall be determined by the City with consideration given to the actual cost incurred by the Consultant in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the City at the time of termination, the cost of the City of employing another firm to complete the work required, and the time which may be required to do so.



**6. Non-Discrimination.** The Consultant agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, color, creed, religion, national origin, marital status, sex, sexual orientation, age or handicap, except for a bona fide occupational qualification. The Consultant understands that if it violates this provision, this Agreement may be terminated by the City and that the Consultant may be barred from performing any services for the City now or in the future.

**7. Indemnification.**

A. The Consultant agrees to hold harmless, indemnify and defend the City, its officers, agents, and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the Consultant, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the Consultant, its officers, agents, subconsultants or employees, in connection with the services required by this Agreement; provided, however, that:

1. The Consultant's obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or sole negligence of the City, its officers, agents or employees; and

2. The Consultant's obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the Consultant and the City, or of the Consultant and a third party other than an officer, agent, subconsultant or employee of the Consultant, shall apply only to the extent of the negligence or willful misconduct of the Consultant.

B. 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.

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

**8. 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, subconsultants or subcontractors.

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 per project 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 per occurrence. All policies and coverages shall be by an 'A' rated company licensed to conduct business in the State of Washington. If such coverage is written on a claims made form, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City of Gig Harbor.

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 upon request.

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.

**9. Ownership and Use of Work Product.** Any and all documents, drawings, reports, and other work product produced by the Consultant under this Agreement shall become the property of the City upon payment of the Consultant's fees and charges therefore. The City shall have the complete right to use and re-use such work product in any manner deemed appropriate by the City, provided, that use on any project other than that for which the work product is prepared shall be at the City's risk unless such use is agreed to by the Consultant.

**10. 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.

**11. Records.** The Consultant shall keep all records related to this Agreement for a period of three years following completion of the work for which the Consultant is retained. The Consultant shall permit any authorized representative of the City, and any person authorized by the City for audit purposes, to inspect such records at all reasonable times during regular business hours of the Consultant. Upon request, the Consultant will provide the City with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the Consultant, but the Consultant may charge the City for copies requested for any other purpose.

**12. 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 subconsultants 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.

**13. 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.

**14. Resolution of Disputes and Governing Law.**

A. 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 or Director of Operations and the City shall determine the term or provision's true intent or meaning. The City Engineer or Director of Operations 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.

B. 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 or Director of Operations 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 prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.

**15. Written Notice.** All notices required to be given by either party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth below. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

CONSULTANT:  
AHBL, Inc.  
ATTN: David C. Follansbee, PLS  
2215 North 30<sup>th</sup> Street, Suite 300  
Tacoma, WA 98403  
(253) 383-2422

City of Gig Harbor  
ATTN: Jeff Langhelm, P.E.  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335  
(253) 851-6170

**16. Subcontracting or Assignment.** The Consultant may not assign or subcontract any portion of the services to be provided under this Agreement without the express written consent of the City. If applicable, any subconsultants approved by the City at the outset of this Agreement are named on **Exhibit C** attached hereto and incorporated herein by this reference as if set forth in full.

**17. Entire Agreement.** This Agreement represents the entire integrated agreement between the City and the Consultant, superseding all prior negotiations, representations or agreements, written or oral. This Agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CONSULTANT

CITY OF GIG HARBOR

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor Jill Guernsey

ATTEST:

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

APPROVED AS TO FORM:

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



## Exhibit A



September 15, 2014

Mr. Jeff Langhelm  
Public Works Director  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335-1214

Project: Gig Harbor Public Works Operations Center, AHBL No. 2140572.50  
Subject: Proposal for Wetland Analysis and Wetland Delineation/Land Surveying Services  
for Gig Harbor Public Works Operations Center Site (Tax Parcel No. 022106-3044)

Dear Mr. Langhelm:

Thank you for the opportunity to submit this proposal for wetland assessment and wetland delineation/land surveying services for the Gig Harbor Public Works Operations Center project. We understand that the City would like to understand if there are any wetland and/or wetland buffers that affect Pierce County Tax Parcel No. 022106-3044. Our scope of services is as follows:

### Wetland Assessment – Task 00

1. Visit the site (Pierce County Tax Parcel No. 0221063044) located in Gig Harbor, Washington, and conduct an assessment for the presence of wetlands in accordance with Gig Harbor Municipal Code (GHMC) Chapter 18.08. The site will be visually investigated for the presence of wetlands and other critical areas. In addition to the site, areas within 300 feet of the site also will be visually investigated. Should wetlands be observed, they will be visually evaluated and rated using the Department of Ecology's Revised Wetland Rating System for Western Washington (Hruby 2004) and the GHMC to determine the wetland category and subsequent buffer area(s). The reconnaissance will focus on determining if any wetlands and/or wetland buffers would constrain development near the property's northern, southern, or western boundaries. This task includes time for preparation of a short technical memorandum detailing the results of the reconnaissance.

### Wetland Delineation – Task 51

2. If wetlands are found on the site, they will be delineated in accordance with the US Army Corps of Engineers' Wetlands Delineation Manual and associated regional guidance letters. Based on these manuals, wetland boundaries will be determined using vegetation, soil characteristics, and hydrologic features, and then will be marked using alpha-numerically labeled stakes or flagging. Prepare a wetland analysis report based on the results of the field delineation. The report will discuss the physical and biological attributes of the wetland(s), as well as the functions and values it provides. The report will also provide a categorization and buffer width based on the Department of Ecology's rating system and the requirements of GHMC Chapter 18.08. The report will also include a map showing the location of wetland boundaries in relation to the property boundaries, as well as the proposed site improvement(s).

Civil Engineers

Structural Engineers

Landscape Architects

Community Planners

Land Surveyors

Neighbors

TACOMA

2215 North 30th Street  
Suite 300  
Tacoma, WA 98403-3350  
253.383.2422 TEL

[www.ahbl.com](http://www.ahbl.com)

Mr. Jeff Langhelm  
September 15, 2014  
2140572.50  
Page 2 of 2



3. Locate existing survey control necessary to place work onto boundary and topographic survey previously prepared for this project by Prizm Surveying.
4. Locate wetland flags as set by wetland biologist. Wetland flags will be added to existing survey base map. Survey base map will be provided to wetland biologist for review and use in preparation of wetland report.
5. Prepare final survey base map that details wetlands, wetland buffers, and areas for each. Map will be provided to client in both electronic and signed hard copy formats.

This task will only be initiated if the wetland and critical areas reconnaissance efforts identify that wetland areas are present within the site. This scope of work will be billed on a time and expense basis, not to exceed the amount shown below.

---

**Billing Summary**

<u>Items</u>	<u>Description</u>	<u>Task No.</u>	<u>Amount</u>
Item 1	Wetland Assessment	T-00	\$1,365
Items 2-5	Wetland Delineation (T&E, NTE)	T-51	<u>10,784</u>
<b>Total</b>			<b>\$12,149</b>

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The following item will need to be submitted to us before we can commence work:

- Signed contract or purchase order.

If you find this proposal acceptable, please sign and return two (2) copies of the enclosed contract to our office, or send us a purchase order. If you sign our contract, please note that each page must be initialed to indicate that you have read and agree with the terms. We will return one (1) copy of this contract to you after we have signed it. Our receipt of the signed contract or purchase order will be our notification to proceed.

If you have any questions, please call me at (253) 383-2422.

Sincerely,

David C. Follansbee, PLS  
Associate Principal

DF/lsk

Enclosure

Q:\2014\2140572\Proposals\_Contracts\Finals\20140915 Pro 2140572.50.docx

**TABLE 1  
BUDGET BREAKDOWN  
GIG HARBOR PUBLIC WORKS OPERATIONS CENTER  
GIG HARBOR, WASHINGTON**

Exhibit B

AHBL, Inc.					
Hours of Labor by Task					
Scope Items	Assoc. Principal	2-Man Crew	Survey Tech	Totals	Total Labor Costs
Item 3 - Locate Existing Survey Control	1	4		5	\$ 945
Item 4 - Locate Wetland Flags		12	2	14	\$ 2,500
Item 5 - Prepare Final Survey Base Map	2		2	4	\$ 590
	3	16	4	23	\$ 4,035
<b>Rates by Position</b>	\$ 185	\$ 190	\$ 110		
<b>Total Labor Cost</b>	\$ 555	\$ 3,040	\$ 440	\$ 4,035	
<b>SUBCONTRACTED SERVICES</b>					
Item 1 - Wetland Assessment				\$ 1,365	
Item 2 - Wetland Delineation				\$ 6,749	
<b>Total - Subcontracted Services</b>				\$ 8,114	
<b>Total</b>				\$ 12,149	



## AHBL Survey Department

### SCHEDULE OF CHARGES AND COMPENSATION

Associate Principal.....	185.00/Hour
Survey Crew .....	190.00/Hour
Survey Technician 3 .....	110.00/Hour
Large Format Black & White Bond.....	0.25/sf
Large Format Color Bond.....	4.00/sf
Large Format Mylar .....	2.00/sf
Small Format Color Bond 11 X 17 .....	0.50/Sheet
Small Format Color Bond 8.5 X 11 .....	0.40/Sheet

**The Schedule of Charges and Compensation is subject to change.**

Charges are made for technical typing, as in the preparation of reports, and for technical clerical services directly related to projects. Direct charges are not made for general secretarial services, office management, accounting, or maintenance.





## Business of the City Council City of Gig Harbor, WA

**Subject:** Public Works Shop Roof Replacement – Small Public Works Contract Award

**Proposed Council Action:**

Authorize the Mayor to execute a Small Public Works Contract with D&D Construction I Inc. in the amount of \$121,216.20 for Roof Replacement on four buildings at the Public Works Maintenance Shop and authorize the Public Works Superintendent to approve additional expenditures up to \$4,000 to cover any cost increases that may result from contract change orders due to the nature of this project.

**Dept. Origin:** Public Works/Operations

**Prepared by:** Greg Foote   
Public Works Superintendent

**For Agenda of:** September 22, 2014

**Exhibits:** Public Works Contract

	Initial & Date
<b>Concurred by Mayor:</b>	 9.17.14
<b>Approved by City Administrator:</b>	RW 9/16/14
<b>Approved as to form by City Atty:</b>	via email
<b>Approved by Finance Director:</b>	 9.16.14
<b>Approved by Department Head:</b>	JDD 9/16/14

<b>Expenditure Required</b>	\$121,216.20	<b>Amount Budgeted</b>	\$125,000.00	<b>Appropriation Required</b>	\$0
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**INFORMATION/BACKGROUND**

The metal roofs at the Public Works Maintenance Shop are failing. Leaks have started to appear and mold is occurring in the wooden buildings. This contract will replace the current metal roofing with a standing seam metal roof system on the Operations & Maintenance Facility building, Water Shop building, Under Cover Storage and Waste Storage areas.

In accordance with the City’s Small Works Roster Process (Resolution No. 884), staff solicited quotes from roofing contractors on the Small Works Roster and obtained the following quotes to complete the scope of work:

D&D Construction I Inc.	\$121,216.20
General Mechanical Inc.	\$220,916.20

**FISCAL CONSIDERATION**

The 2014 City of Gig Harbor Budget includes funding for this work in the Parks, Streets, Water and Storm water Repairs and Maintenance budgets.

**BOARD OR COMMITTEE RECOMMENDATION**

N/A

**RECOMMENDATION/MOTION**

Authorize the Mayor to execute a Small Public Works Contract with D&D Construction I Inc. in the amount of \$121,216.20 for Roof Replacement on four buildings at the Public Works Maintenance Shop and authorize the Public Works Superintendent to approve additional expenditures up to \$4,000 to cover any cost increases that may result from contract change orders due to the nature of this project.

**CITY OF GIG HARBOR  
SMALL PUBLIC WORKS CONTRACT**

THIS CONTRACT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the City of Gig Harbor, Washington (the "City"), and D & D Construction I Inc., a Washington Corporation (the "Contractor").

FOR AND IN CONSIDERATION of the mutual benefits and conditions hereinafter contained, the parties hereto agree as follows:

1. Scope of Work.

The Contractor agrees to furnish all material, labor, tools, equipment, apparatus, etc. necessary to perform and complete in a workmanlike manner the work set forth in the Scope of Work for Base Bid and Bid Additives #1 and #2, attached hereto as Exhibit A and incorporated herein by reference.

2. Time of Performance and Completion.

The work to be performed under this Contract shall commence as soon as the Contractor has received a Notice to Proceed from the City. All work shall be completed no later than 90 days from date of commencement stated in Notice to Proceed.

3. Payments.

The Contractor agrees to perform all work called for at the rate of One Hundred Twenty One Thousand Two Hundred Sixteen Dollars and Twenty Cents (\$121,216.20), including applicable Washington State Sales Tax, as shown in the Bid Proposal, attached hereto as Exhibit B and incorporated herein by reference. Said sum shall constitute full compensation for all labor, materials, tools, appliances, etc. required to perform the required services. Total compensation shall not exceed One Hundred Twenty One Thousand Two Hundred Sixteen Dollars and Twenty Cents (\$121,216.20).

4. Retainage.

Pursuant to RCW 60.28.011, five percent (5%) of all monies earned by the Contractor shall be retained by the City for the purposes mentioned in said statute. The Contractor elects to have these monies (check one):

\_\_\_\_\_ Retained in a fund by the City until sixty (60) days following the final acceptance of said improvement or work as completed;



\_\_\_\_\_ Deposited by the City in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties: Provided, that interest on such account shall be paid to the Contractor; or

\_\_\_\_\_ Placed in escrow with a bank or trust company by the City until sixty (60) days following the final acceptance of said improvement or work as completed. When the monies reserved are to be placed in escrow, the City shall issue a check representing the sum of the monies reserved payable to the bank or trust company and the Contractor jointly. Such check shall be converted into bonds and securities chosen by the Contractor and approved by the City and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the Contractor as the said interest accrues.

5. Performance and Payment Bond - 50% Letter.

A. The Contractor shall execute and deliver to the City a bond, on forms supplied or approved by the City, with an approved surety company as surety, in the sum of the full amount of the Contract plus the applicable Washington State Sales Tax, in compliance with RCW 39.08.010 through 39.08.060 and any amendments thereto. The surety on any such bond shall be a surety company duly authorized to transact surety business under the laws of the State of Washington. In lieu of such a bond, the Contractor may provide a letter of credit in the same sum and subject to the same conditions, in a form approved by the City Attorney.

B. If the amount of this Contract is Thirty-five Thousand Dollars (\$35,000) or less, the Contractor may, at its option, in lieu of the bond specified in subparagraph A, have the City retain fifty percent (50%) of the contract amount for a period of thirty (30) days after the date of completion of services, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later.

6. Warranty/Maintenance Bond.

The Contractor hereby warrants that it is fully licensed, bonded and insured to do business in the State of Washington as a general contractor. The Contractor will warranty the labor and installation of materials for a two-year warranty period and shall furnish a maintenance bond for 15% of the contract amount on the City's standard maintenance bond form in order to guarantee that the work specified in Exhibit A and completed by Contractor will remain free from defects in workmanship and materials for a period of two years after completion of construction.

7. Indemnity.

A. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses

or suits, including attorney's 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.

B. 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 Contractor and the City, its officers, officials, employees or volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

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

8. Insurance.

A. The Contractor shall secure and maintain in force throughout the duration of this Contract, business auto coverage for any auto no less than a \$1,000,000 each accident limit.

B. The Contractor shall secure and maintain in force throughout the duration of this Contract, comprehensive general liability insurance with a minimum coverage of not less than a limit of \$1,000,000 per occurrence, \$2,000,000 annual aggregate for bodily injury, including death, and property damage. The insurance will be written on an occurrence basis, by an 'A' rated company licensed to conduct business in the State of Washington. The general liability policy shall name the City as an additional insured and shall include a provision prohibiting cancellation, changes and reductions of coverage under said policy except upon thirty (30) days prior written notice to the City. Certificates of coverage as required by this Section shall be delivered to the City with the signed Contract. Under this Agreement, the Contractor'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 commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

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



D. In addition, the Contractor shall secure and maintain workers' compensation insurance pursuant to the laws of the State of Washington.

9. Prevailing Wage.

A. The prevailing rate of wage to be paid to all workmen, laborers, or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of Chapter 39.12 RCW, as amended, and the rules and regulations of the Department of Labor and Industries. The rules and regulations of the Department of Labor and Industries and the schedule of prevailing wage rates for the locality or localities where this Contract will be performed as determined by the Industrial Statistician of the Department of Labor and Industries, are attached hereto and by reference made a part of this Contract as though fully set forth herein.

B. On or before the date of commencement of the work, the Contractor shall file a statement under oath with the City and with the Director of Labor and Industries certifying the rate of hourly wage paid and to be paid each classification of laborers, workmen, or mechanics employed upon the work by the Contractor or any Subcontractor, which shall not be less than the prevailing rate of wage. Such statement and any subsequent statement shall be filed in accordance with the practices and procedures required by the Department of Labor and Industries.

10. Termination.

A. Termination for Contractor's Default. If the Contractor refuses or fails to make adequate progress of the work, or to prosecute the work or any separable part thereof with such diligence that will insure its completion within the time specified in this Contract, or defaults under any provision or breaches any provision of this Contract, the City may serve notice upon the Contractor and its surety of the City's intention to terminate by default the right of the Contractor to perform the Contract, and unless within ten (10) days after the serving of such notice, the Contractor shall satisfactorily arrange to cure its failure to perform and notify the City of the corrections to be made, the right of the Contractor to proceed with the work shall terminate. In the event of any such termination, the City shall serve notice thereof upon the Surety and the Contractor, provided, however, that if the Surety does not commence performance thereof within twenty (20) days from the date of the mailing to such Surety of the notice of termination, the City may take over the work and prosecute the same to completion by Contract or otherwise for the account and at the expense of the Contractor. In the case of termination for default, the Contractor shall not be entitled to receive any further payment until the work is finished.

B. Termination by City for Convenience. The performance of work under this Contract may be terminated by the City in accordance with this paragraph in whole or in part, whenever the City shall determine that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance or work under the Contract is



terminated, and the date upon which such termination becomes effective. The Contractor shall stop work on the project upon the date set forth in the Notice of Termination and shall take such actions as may be necessary, or as the City may direct, for the protection and preservation of the work. After receipt of a Notice of Termination, the Contractor shall submit to the City its termination claim, in the form and with the certification prescribed by the City. Such claim shall be submitted promptly but in no event later than 3 months from the effective date of the termination. Upon approval by the City, the termination claim shall be paid.

C. Termination by Contractor. If the work should be stopped under an order of any court, or other public authority, for a period of thirty (30) days, through no act or fault of the Contractor or of anyone employed by him, then the Contractor may, upon seven (7) days written notice to the City, terminate this Contract and recover from the City payment for all work executed and any proven loss sustained. Should the City fail to pay to the Contractor, within the payment period provided for in this Contract, any sum due and owing, then the Contractor may, upon seven (7) days written notice to the City, stop the work or terminate this Contract.

11. Compliance with Laws. The Contractor shall at all times comply with all applicable state and local laws, rules, ordinances and regulations.

12. Nondiscrimination. Except to the extent permitted by a bona fide occupational qualification, the Contractor agrees that the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

13. Independent Contractor. No agent, employee or representative of the Contractor shall be deemed to be an agent, employee or representative of the City for any purpose. Contractor shall be solely responsible for all acts of its agents, employees, representatives and subcontractors during the performance of this contract.

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



agents, employees, representatives and subcontractors during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Contractor performs

15. Legal Action. In the event that either party shall bring suit to enforce any provision of this Contract or to seek redress for any breach, the prevailing party in such suit shall be entitled to recover its costs, including reasonable attorneys' fees.

16. Entire Agreement. This Contract, together with all attachments, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations and agreements, whether written or oral. This Contract may be amended only by written change order, properly signed by both parties.

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

CITY OF GIG HARBOR

CONTRACTOR

\_\_\_\_\_  
MAYOR JILL GUERNSEY  
Date: \_\_\_\_\_

\_\_\_\_\_  
D & D Construction I Inc.  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:  
Office of the City Attorney

\_\_\_\_\_

## EXHIBIT A

### PUBLIC WORKS SHOP ROOF REPLACEMENT SCOPE OF WORK September 3, 2014

The City of Gig Harbor (City) is requesting bid proposals for the supply and installation of a standing seam metal roof system on Building A (Operations & Maintenance Facility – 40'x100'), Building B (Water Shop – 48' x 72'), Building C (Under Cover Storage – 32' x 72'), and Building D (Waste Storage Building – 38' x 58') located at 5118 89<sup>th</sup> St. NW, Gig Harbor, Washington. Color to be selected by the City's project representative. See attached site plan for reference.

City Contract (attached) – Sample Small Public Works contract to perform this work provided for reference as to City contract requirements, including insurance and prevailing wage requirements.

#### SECTION 1 – GENERAL

##### DESCRIPTION OF WORK

###### A. General:

Furnish all labor, material, tools, equipment and services for all performed work.

The Metal Roofing Contractor will provide all components required for a complete metal roofing system to include panels, panel clips, trim/flashing, step out molding, drip edging, fascia, ridge, closures, sealants, fillers and any other required items. Install permanent tie-down anchors at peak of roofs for fall restraint. Minimum Standard Requirements:

###### Metal Roof Panel:

- a. Minimum Profile: 1-1/2 inch high rib x 16-inch wide panel.
- b. Seam Type: Mechanically seamed.
- c. Minimum Thickness: Panel to meet all specified design loads, but not less than 22 gauge.

###### Panel Base Material:

- a. Galvanized steel sheet, G90, conforming to ASTM A653
- b. Smooth texture
- c. UL 580 Class 90 Rated and Listed

###### Finish:

Factory Color Finish: White

- a. Fluor-polymer, or equivalent, coating produced with minimum 70% PVDF resin.

###### B. Contractor's Qualifications:

Contractor shall have a minimum of three years' experience in installation of metal roofing systems. All materials specified in this document shall be produced in a permanent factory environment with fixed-base production and manufacturing equipment.

Contractor shall have installed five projects of similar scope and magnitude that have been in service for a minimum of two years with satisfactory performance of the roof system.

**EXHIBIT A**

**PUBLIC WORKS SHOP ROOF REPLACEMENT  
SCOPE OF WORK  
September 3, 2014**

C. Installation quality control:

The contractor shall provide quality control inspections at the following stages of installation:

- a. Initial inspection prior to installation of roof system materials. The purpose of this inspection is to review and verify substrate installation, review installation procedures and determine the scheduling of the intermediate inspections.
- b. Intermediate inspections will include the review of the installed product in compliance with the manufacturer's recommended installation procedures.
- c. Final Inspection & Certification at the completion of the installed roofing system.

**SUBMITTALS**

A. Physical Samples:

- a. Submit samples and color chips for all proposed finishes and materials.

Submit one 6-inch long sample of panel, including clips.

- b. Installation contractor's qualifications:

Submit a short summary of the installer's qualifications and experience in recent projects performed in the State of Washington. Please furnish three (3) verifiable references.

- c. Manufacturer's product cut sheets to include verification of compliance with UL 580.

**PRODUCT DELIVERY, STORAGE AND HANDLING**

A. Delivery:

Deliver roofing system materials to job site properly packaged to provide protection against transportation damage and weather.

B. Handling:

Exercise extreme care in unloading, storing and installing roofing system to prevent bending, warping, twisting, cutting and surface damage.

C. Storage:

Store all materials and accessories above ground on well supported platforms. Store under waterproof covering, if long term. Provide proper ventilation of metal roofing system to prevent condensation build-up between each panel and trim/flashing component.

**EXHIBIT A**

**PUBLIC WORKS SHOP ROOF REPLACEMENT  
SCOPE OF WORK  
September 3, 2014**

**SECTION 2 – PROJECT EXECUTION & PERFORMANCE**

**INSTALLATION**

- A. Install the mechanically seamed standing seam metal roof system in accordance with manufacturer's instructions and approved installation standards.
- B. Install the mechanically seamed standing seam metal roof system so that it is weather tight and allows for thermal variances.
- C. Prior to metal roof installation, install Ice & Water Shield underlayment or equivalent covering minimum 8' perimeter of roof area.
- D. Comply with mechanically seamed standing seam metal roof system manufacturer's approved installation instructions and recommendations for installation.
- E. Contractor to verify all measurements.

**CLEANING/PROTECTION**

- A. Clean up all project debris, leave onsite for City to dispose of.
- B. Protect work against damage until final acceptance. Replace or repair to the satisfaction of the Department of Public Works project representative any work that becomes damaged prior to final acceptance.

**SAFETY**

Contractor will provide all safety apparatuses to follow Labor & Industries safety and fall restraint regulations and provide tie-off point where necessary.

**WARRANTY**

Upon completion of work, furnish all written warranties and guarantees.



**EXHIBIT B**

**PUBLIC WORKS SHOP ROOF REPLACEMENT  
BID PROPOSAL  
September 3, 2014**

For consideration for this project, price quotations must be received on this form by 10:00 a.m., Friday, September 12, 2014 at:

Mail/Hand-Deliver to: City of Gig Harbor  
Public Works/Operations  
Attn: Terri Reed  
3510 Grandview Street  
Gig Harbor, WA 98335

Or email to: [reedt@cityofgigharbor.net](mailto:reedt@cityofgigharbor.net)

Questions: Contact Terri Reed @ (253) 853-7640 or [reedt@cityofgigharbor.net](mailto:reedt@cityofgigharbor.net)

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**A. ACKNOWLEDGEMENT**

The undersigned bidder declares that he has read the Contract Documents, understands the Scope of Works and conditions of the City, and has determined for itself all situations affecting the work herein bid upon.

**B. BID SCHEDULE**

**BASE BID**

<u>ITEM</u>	<u>DESCRIPTION</u>
1	<b>Building A – Operations &amp; Maintenance Facility (40' x 100') (24' x 18')</b> <ul style="list-style-type: none"><li>• Tear off the existing metal roofing and vapor barrier insulation.</li><li>• Install new vapor barrier insulation, R-19 WMP-50 (reinforced facing to help deter animal activity)</li><li>• Install new vents and flashings as needed for new roof system.</li><li>• Install 22-gauge mechanically seamed standing seam metal roofing.</li><li>• Install permanent tie-down anchors at peak of roof for fall restraint.</li><li>• Clean up all project debris, leave onsite for City of dispose of.</li></ul>
2	<b>Building B – Water Shop Building (48' x 72')</b> <ul style="list-style-type: none"><li>• Tear off the existing metal roofing and vapor barrier insulation.</li><li>• Install new vapor barrier insulation, R-19 WMP-50 (reinforced facing to help deter animal activity)</li><li>• Install new vents and flashings as needed for new roof system.</li><li>• Install 22-gauge mechanically seamed standing seam metal roofing.</li><li>• Install permanent tie-down anchors at peak of roof for fall restraint.</li><li>• Clean up all project debris, leave onsite for City of dispose of.</li></ul>

**EXHIBIT B**

**PUBLIC WORKS SHOP ROOF REPLACEMENT  
BID PROPOSAL  
September 3, 2014**

**BID ADDITIVE #1**

**Building C – Under Cover Storage (32' x 72')**

- Tear off the existing metal roofing and vapor barrier insulation.
- Install new vapor barrier insulation, R-19 WMP-50 (reinforced facing to help deter animal activity)
- Install new vents and flashings as needed for new roof system.
- Install 22-gauge mechanically seamed standing seam metal roofing.
- Install permanent tie-down anchors at peak of roof for fall restraint.
- Clean up all project debris, leave onsite for City of dispose of.

**BID ADDITIVE #2**

**Building D – Waste Storage Building (38' x 58')**

- Tear off the existing metal roofing and vapor barrier insulation.
- Install new vapor barrier. No insulation.
- Install new vents and flashings as needed for new roof system.
- Install 22-gauge mechanically seamed standing seam metal roofing.
- Install permanent tie-down anchors at peak of roof for fall restraint.
- Clean up all project debris, leave onsite for City of dispose of.

EXHIBIT B

PUBLIC WORKS SHOP ROOF REPLACEMENT  
BID PROPOSAL  
September 3, 2014

NOTE: Show unit prices in figures only. Any bid proposal with an incomplete bid item shall be considered non-responsive.

**BASE BID**

BID ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL PRICE
1	Building A - Operations & Maintenance Facility (40' x 100') (24' x 18')	49 <sup>#</sup>	49 <sup>#</sup>	\$ 840 <sup>00</sup>	\$ 41,160
2	Building B - Water Shop Building (48' x 72')	38 <sup>#</sup>	38 <sup>#</sup>	\$ 840 <sup>00</sup>	\$ 31,920
SUB-TOTAL					\$ 73,080 <sup>00</sup>
SALES TAX @ 8.5 %					\$ 6,211 <sup>80</sup>
BID TOTAL**					\$ 79,291 <sup>80</sup>

**BID ADDITIVE #1**

BID ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL PRICE
1	Building C - Under Cover Storage (32' x 72')	26 <sup>#</sup>	26 <sup>#</sup>	\$ 840 <sup>00</sup>	\$ 21,840
SUB-TOTAL					\$ 21,840
SALES TAX @ 8.5 %					\$ 1,856.40
BID TOTAL**					\$ 23,696 <sup>40</sup>

**BID ADDITIVE #2**

BID ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL PRICE
2	Building D - Waste Storage Building (38' x 58')	20 <sup>#</sup>	20 <sup>#</sup>	\$ 840 <sup>00</sup>	\$ 16,800 <sup>00</sup>
SUB-TOTAL					\$ 16,800 <sup>00</sup>
SALES TAX @ 8.5 %					\$ 1,428 <sup>00</sup>
BID TOTAL**					\$ 18,228 <sup>00</sup>

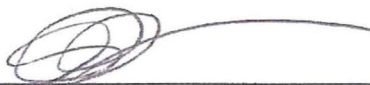
\*\*All bids must include freight/shipping.

EXHIBIT B

PUBLIC WORKS SHOP ROOF REPLACEMENT  
BID PROPOSAL  
September 3, 2014

PROPOSAL SIGNATURE

Bidder Signature:



Printed Bidder Name:

Cindy Schneider

Company Name:

D + D Construction Inc

Address:

PO Box 731890

Payalup WA 98313

Phone:

253 538 9331

Email:

info@dndconstructioninc.com

Fax:

253 538 9313

UBI #:

601 618199

\*\*\* END OF EXHIBIT B \*\*\*





**Business of the City Council  
City of Gig Harbor, WA**

**Subject:** East Water Tank Seismic and Mechanical Upgrades Design – Consultant Services Contract Amendment

**Proposed Council Action:** Authorize the Mayor to execute a Consultant Services Contract Amendment with HDR Engineering Inc. in an amount not to exceed Twenty Five Thousand Eight Hundred Hundred Three Dollars and Thirty Nine Cents (\$25,803.39).

**Dept. Origin:** Public Works

**Prepared by:** Stephen Misiurak, PE  
City Engineer

**For Agenda of:** September 22, 2014

**Exhibits:** Consultant Services Contract Amendment with Scope and Fee

	Initial & Date
<b>Concurred by Mayor:</b>	<i>[Signature]</i> 9/17/14
<b>Approved by City Administrator:</b>	<i>[Signature]</i> 9/16/14
<b>Approved as to form by City Atty:</b>	
<b>Approved by Finance Director:</b>	<i>[Signature]</i> 9.16.14
<b>Approved by Public Works Dir.:</b>	<i>[Signature]</i> 9/16/14
<b>Approved by City Engineer:</b>	<i>[Signature]</i> 9/16/14

<b>Expenditure Required</b>	\$25,803.39	<b>Amount Budgeted</b>	\$400,000.00	<b>Appropriation Required</b>	\$0
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**INFORMATION/BACKGROUND**

A 2014 budgeted objective provides for the East Water Tank Painting and Seismic retrofit. This consultant services contract with HDR provides for the design of final formal bid documents which will be comprised of final plans, specifications, and estimate for the necessary tank seismic and mechanical upgrades.

**FISCAL CONSIDERATION**

2014 Budget for Water Division – Operating, Objective 6-East Water Tank Painting	\$ 400,000
HDR Contract – East Tank Site and Safety Upgrades Evaluation	\$ 9,107.00
HDR Amend. #1 – East Tank Seismic and Mechanical Upgrades Design	\$ 25,803.39
Total Available	<b>\$ 365,089.61</b>

**BOARD OR COMMITTEE RECOMMENDATION**

N/A

**RECOMMENDATION/MOTION**

Authorize the Mayor to execute a Consultant Services Contract Amendment with HDR Engineering Inc. in an amount not to exceed Twenty Five Thousand Eight Hundred Three Dollars and Thirty Nine Cents (\$25,803.39) for a total contract amended amount of \$34,910.39.

**FIRST AMENDMENT  
TO  
CONSULTANT SERVICES CONTRACT  
BETWEEN THE CITY OF GIG HARBOR AND  
HDR ENGINEERING, INC.**

THIS FIRST AMENDMENT is made to that certain Consultant Services Contract dated June 24, 2014, (the "Agreement"), by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and HDR Engineering, Inc., a limited liability company organized under the laws of the State of Washington (hereinafter the "Consultant").

**RECITALS**

WHEREAS, the City is presently engaged in completing the East Water Tank Seismic and Mechanical Upgrades Design and desires to revise consultation services in connection with the project; and

WHEREAS, Section 17 of the 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 and to amend 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. Scope of Work.** Section 1 of the Agreement is amended to add the work as shown in **Exhibit A – Scope of Work**, attached to this Amendment and incorporated herein.

**Section 2. Compensation.** Section 2(A) of the Agreement is amended to increase compensation to the Consultant for the work to be performed as described in **Exhibit A** in an amount not to exceed Twenty five Thousand Eight Hundred Three Dollars and Thirty Nine Cents (\$25,803.39), as shown in **Exhibit A**, attached to this Amendment and incorporated herein.

**Section 3. Duration of Work.** Section 4 of the Agreement is amended to extend the duration of this Agreement to March 1, 2015.

EXCEPT AS EXPRESSLY MODIFIED BY THIS AMENDMENT, ALL TERMS AND  
CONDITIONS OF THE AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties have executed this Amendment on this  
\_\_\_\_\_ day of \_\_\_\_\_, 2014.

CONSULTANT

CITY OF GIG HARBOR

By: \_\_\_\_\_  
Its Principal

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

ATTEST:

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

APPROVED AS TO FORM:

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



**EXHIBIT A  
AMENDMENT 1**

**SCOPE OF SERVICES**

**PART 1.0 PROJECT DESCRIPTION**

The East Tank is an existing steel water reservoir that is part of the City of Gig Harbor's domestic water distribution system. Located on the east side of Gig Harbor, this storage reservoir delivers water to the low level side of the city's distribution system. The reservoir is a circular steel tank with an estimated diameter of 52' and assumed height of 16' from existing ground. The City of Gig Harbor is now looking to provide operational upgrades to the tank to improve performance and quality of domestic water supply and make revisions to the existing tank roof system that were identified in the structural analysis performed by PCS Structural solutions. This phase of the project is the engineering design and development of specifications for improvements to the East tank. All the proposed improvements will be designed in compliance with American Water Works Association (AWWA) and City of Gig Harbor standards.

**PART 2.0: SCOPE OF SERVICES TO BE PERFORMED BY THE CONSULTANT FOR THE EVALUATION PHASE OF THE EAST TANK**

**2.1 PROJECT MANAGEMENT/CONSULTANT COORDINATION**

The CONSULTANT shall provide project management services to plan, perform, and control the various elements of the project including sub-consultant(s) to meet the needs and expectations of the CITY.

The CONSULTANT shall submit monthly invoices with a written summary of project progress to-date and activities expected for the next month's work period.

*Assumptions:*

Two (2) one-hour project meetings have been assumed for the project management and coordination of the project.

**2.1.1 Project Reporting and Management**

The CONSULTANT will administer the project and coordinate with the CITY to facilitate efficient progress and timely completion of the project. Elements of work included in this task include:

- Evaluate and Monitor Project Budget
- Develop Project Guide
- Establish Communication Plan
- Develop and Monitor Quality Management Plan

*Assumptions:*

The CONSULTANT will provide monthly invoices to the CITY summarizing the components of the project work complete. Billing will be provided in a tabular EXCEL format.



## 2.2 Project Design Decision Meeting

The CONSULTANT shall conduct a project design meeting and identify the locations and configuration of the tank overflow pipe, fill line, secondary vent and man-way hatch. The location and configuration of the interior fall restraint system, exterior ladder and safety cage, safety landing with railing to tank vent assembly fall restraint connection point at center of tank and cement concrete apron for the tank exterior will also be defined in the meeting.

The CONSULTANT shall provide assistance to the CITY in the selection of proposed locations and configurations of the project elements required for the reservoir and document the project design decisions in a project technical memo.

### ***Assumptions:***

The CITY will provide the CONSULTANT with the design drawings for the east tank fill line upgrade as well as any known record drawings for the East Tank.

The design decisions made at the meeting will be documented in the project design memorandum and will be used as the basis for developing the design plans for the various upgrades to the East tank.

### **2.2.1 60% Project Design Plans, Opinion of Probable Construction Cost and Specifications on Drawings**

The CONSULTANT will provide 60% design plans, OPCC and specifications for the proposed upgrades to the east tank. The following improvements will be shown on the plans:

- Removal and demolition of existing tank piping and appurtenances.
- Revision of the existing tank over flow piping to a new external location including connection to existing fill/drain line for the east tank.
- Development of plans and details for a new stainless steel tank vent system including a secondary vent per AWWA recommendations.
- Design of new vent security enclosure with inspection ports/hatches included.
- Design of tank safety improvements in accordance with adopted CITY standards and safety requirements.
- Design and layout of a new 4' wide cement concrete apron around the tank perimeter.
- Structural design of a retrofit to the existing tank roof assembly including integrated fall protection system.
- Opinion of probable cost of construction.

Specifications for the work described will be included on the project plans.

### **2.2.2 Final Design Plans, Opinion of Probable Construction Cost and Specifications on Drawings**

The CONSULTANT will provide Final stamped design plans, OPCC and specifications for the proposed upgrades to the east tank. The following improvements will be shown on the plans:

- Removal and demolition of existing tank piping and appurtenances.
- Revision of the existing tank over flow piping to a new external location including connection to existing fill/drain line for the east tank.
- Development of plans and details for a new stainless steel tank vent system including a secondary vent per AWWA recommendations.
- Design of new vent security enclosure with inspection ports/hatches included.

- Design of tank safety improvements in accordance with adopted CITY standards and safety requirements.
- Design of a new 4' wide cement concrete apron around the tank perimeter.
- Structural design of a retrofit to the existing tank roof assembly including integrated fall protection system.
- Opinion of probable cost of construction.

Project Specifications for the work described will be included on the project plans.

***Assumptions:***

The design of structural repairs and mechanical upgrades will be based off information shown in the tank design drawings. Elevations will need to be verified during the design process with the CITY to confirm the outcome of the proposed upgrades and retrofit.

It has been assumed that one draft technical memorandum of the design documentation meeting will be provided for review by the CITY. Comments received from the CITY will be incorporated into a final technical memorandum stamped and signed by the project engineer.

The CONSULTANT will provide project specifications on drawings. Project specifications will be developed using the standard 50 division CSI format. Coordination between the structural specifications and mechanical specifications will be the responsibility of the prime and sub-CONSULTANT. The CITY will prepare the draft and final contract and Bid documents and any supplementary conditions.

The CONSULTANT is preparing 2 plan submittals (60% and Final Plan) for the proposed project in conjunction with the technical memorandum. For the purposes of estimating the CONSULTANT has assumed the following sheets will be required as part of the 60% and final plan submittal:

- Mechanical Plan and profile 2
- Structural Plan and details 2
- General details 2
- Specifications on plans 2

For a total of 8 plan sheets, additional comments and requested changes by the CITY beyond the final project plans will be considered extra work and additional budget will be negotiated in advance of performing the work to cover the extra hours needed to incorporate the additional changes. Project drawings will be developed using AutoCAD 2014 or older as requested by the CITY.

***Deliverables:***

Stamped technical memorandum regarding the tank design decisions

Opinion of Probable Cost of Construction

Project 60 percent stamped plans with specifications included on the drawings on 22 x 34 inch sheets

Project final stamped and signed design plans with specifications included on the drawings on 22 x 34 inch sheets

**PART 3.0 CITY RESPONSIBILITIES:**

- The CITY shall provide the CONSULTANT with all existing and available record drawings and as-built data for the east tank.
- The CITY will provide elevation data in the form of GPS or survey information for the development of the overflow elevation

**PART 4.0 PERIODS OF SERVICE:**

Tasks to perform the necessary work described in this task order shall begin upon authorization of this amendment by the CITY. The technical memorandum shall be finalized and submitted to the CITY with 15 business days of design decision meeting, 60% design plans and final design plans shall be completed within 45 business days from the date authorizing notice to proceed.

**EXHIBIT B**  
**RATE SCHEDULE**

<b>Position</b>		<b>Fully Burdened Rates</b>	
<b>Classification</b>		<b>Minimum</b>	<b>Maximum</b>
Project	Principal	\$250.00	\$290.00
Sr Project	Manager	\$160.00	\$230.00
Project	Manager	\$120.00	\$170.00
Structural	Engineer	\$140.00	\$190.00
Restoration	Engineer	\$130.00	\$180.00
Design	Engineer	\$110.00	\$130.00
CAD	Designer	\$80.00	\$110.00
Project	Assistant	\$60.00	\$90.00
Project	Controller	\$90.00	\$130.00





Seattle 811 First Avenue, Suite 620 • Seattle, WA 98104 • tel: 206.292.5076  
Tacoma 1250 Pacific Avenue, Suite 701 • Tacoma, WA 98402 • tel: 253.383.2797

www.pcs-structural.com

August 26, 2014

**MEMO**

TO: HDR Gig Harbor

ATTN: Gus Garcia

FROM: Gary Beckner, S.E.

RE: *Proposal for Structural Engineering Services - Updated  
Design of Repairs and Improvements to the East Tank - Water Storage Tank*

Herein is our proposal for structural engineering services for repairs and improvements to the existing 1973 welded steel water storage tank.

SCOPE:

1. Retrofit the existing roof structure to address rafter span issues identified in our phase 1 evaluation. Provide structural design of repairs to strengthen the roof for live load capacity, including drawings with condensed material specifications. This proposal does not include replacing the roof with new structure. Drawings will be prepared with AutoCad or Revit.
2. Assist HDR's overall design and detailing for improvements to the tank. We will review and markup details prepared by HDR for structural aspects for the following tank accessories.
  - a. New exterior shell ladder with cage.
  - b. Fall restraint anchors on the roof.
  - c. Additional access hatch in the shell.
  - d. 3 tank penetrations for new piping.
  - e. Cap abandoned piping holes.
  - f. Piping support connection details.
  - g. Provide structural calculations for all items.
3. Review formal booklet specification sections provided by HDR.

FEE:

	<u>Principal</u>	<u>Engineering</u>	<u>Drafter</u>	<u>Budget Hours</u>	<u>Budget Fees</u>
Rate	\$185/hr	\$135/hr	\$90/hr		
Scope 1	\$370	\$3,375	\$1,350	42	\$ 5,095
Scope 2	\$185	\$2,025		16	\$ 2,210
Scope 3		\$675		5	\$ 675
				Total:	\$ 7,980



HDR Gig Harbor  
Gus Garcia  
*Proposal for Structural Engineering Services - Updated*  
*Design of Repairs and Improvements to the East Tank - Water Storage Tank*

For an overall design fee, we propose \$8,000.

It is assumed that design 1 to 2 coordination meetings will occur which have been factored in the budget. Value engineering, providing alternate designs, and system cost comparisons has not been included in this proposal. Bidding period and construction phase services are not included in this proposal. These services can be added with an amendment. We appreciate this opportunity to be of service to you and the City of Gig Harbor. If there are any comments or questions, let me know.

GEBmao  
14-482

HDR Engineering Labor Estimate		Blake, Andrew C	Campbell, Jerry L	Garcia, Gus B	Hill, Jason L	Hume, Timothy D	Jeffrey, Sherry L	Orton, Eric E	Total Hours	Total Labor Dollars						
Task #	Tasks & Subtasks	Senior Engineering Tech	CADD Technician	Project Mgr/Local Gov't Lead	Structural Engineer/Proj Mgr	Water Business Group Lead	Project Controller	Mechanical Engineer			Travel	Field Equip	Office Supplies	Subs + Markup	Subtotal Expenses	Total
	Rates	128.99	88.57	146.01	189.10	206.89	105.74	131.94								
1	Project Management	0	0	6	0	0	8	0	14	\$ 1,721.99	-	-	9.00	8,400.00	8,460.80	10,182.79
	Project Guide			1					1							
	Coordination			1			4		5							
	Invoicing and Billing			2			4		6							
	Meetings			2					2							
2	Design Documentation Meeting	0	0	7	1	1	0	6	15	\$ 2,209.68	-	-	-	-	55.50	2,265.18
	Meeting			3				4	7							
	Draft memo			2				1	3							
	Final memo			2	1	1		1	5							
3	60 Percent plans and specs	4	16	6	4	2	0	22	54	\$ 6,881.88	-	-	-	-	199.80	7,081.68
	Design Plans	2	12	2				10	26							
	Specifications on plans/OPCC	2	4	4				12	22							
	QAQC				4	2			6							
									0							
4	Final plans and specs	2	16	6	4	2	0	18	48	\$ 6,096.15	-	-	-	-	177.60	6,273.75
	Design Plans	1	10	2				8	21							
	Specifications on plans /OPCC	1	6	4				10								
	QAQC				4	2										
	Task Total Hours	6	32	25	9	5	8	46	131							
	Task Cost	\$ 773.95	\$ 2,834.14	\$ 3,650.25	\$ 1,701.90	\$ 1,034.47	\$ 845.93	\$ 6,069.06	\$ 16,909.69		-	-	9.00	8,400.00	8,893.70	25,803.39

## PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

**WHEREAS**, in 1867, three fishermen – Samuel Jerisich, Peter Goldsmith and John Farrague (two Croatians and one Spaniard) are credited as the first to settle in Gig Harbor; and

**WHEREAS**, over the next 50 years, Croatians immigrants are credited with settling and developing the west side of Gig Harbor; and

**WHEREAS**, Croatians brought fishing and boatbuilding skills with them from their homeland contributing to early development; and

**WHEREAS**, Croatians continue to have an impact on Gig Harbor's maritime heritage; and

**WHEREAS**, in recognition of the profound impact Croatians have played on the development, character and history of the City of Gig Harbor, and to honor the upcoming visit of the Prime Minister of Croatia, Zoran Milanovic,

**NOW, THEREFORE, I, Jill Guernsey, Mayor, and the City Council of the City of Gig Harbor do proclaim Sunday, September 28, 2014, as**

## CROATIAN HERITAGE DAY

and encourage all citizens to join in the celebration of Gig Harbor's proud Croatian heritage. In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Gig Harbor to be affixed this 22nd day of September.

---

Mayor, City of Gig Harbor

---

Date



# Gig Harbor Trolley 2014 Season



**Gig Harbor City Council**  
**Sept 22, 2015**

**Tina Lee**  
Service Innovation Administrator  
tlee@piercetransit.org  
253-589-6887



# Gig Harbor Trolley Comparisons

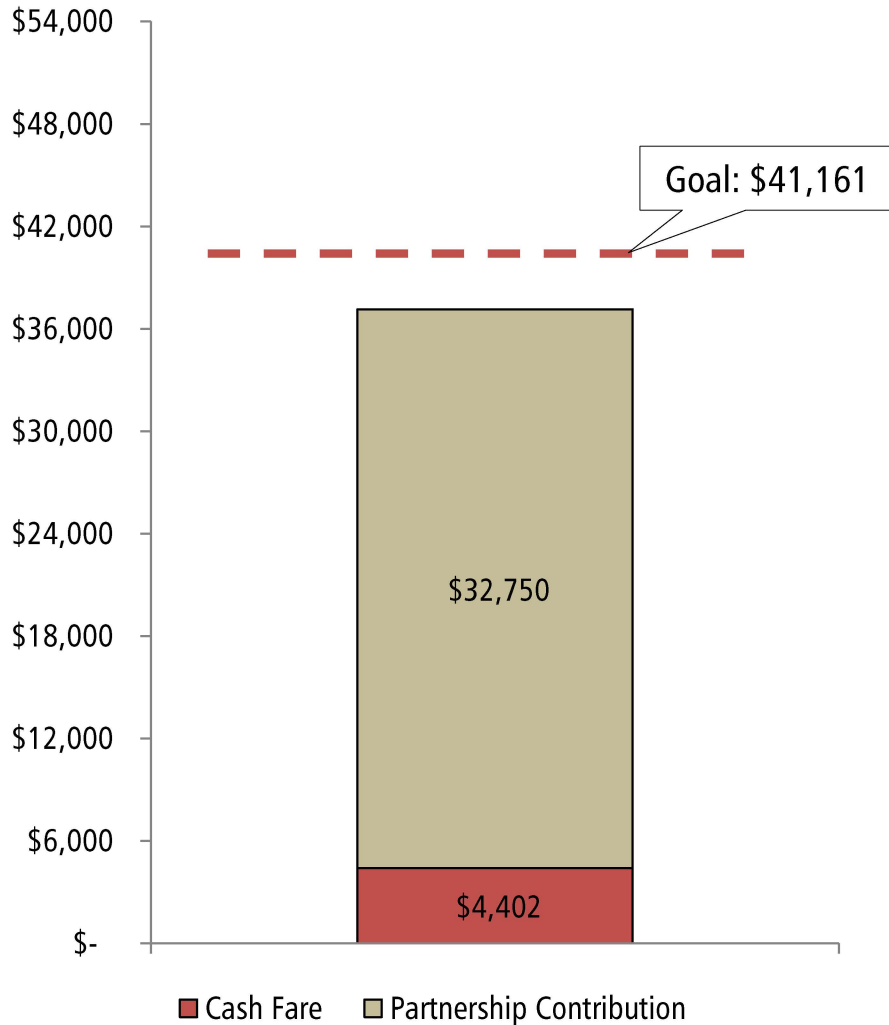


	2013	2014
Season	July 9 – Sept 28	May 24 – Sept 1
Days of Service	82	101
Service Hours Operated	1,771	2,132
Boardings	<b>28,514</b>	<b>11,841</b> (- 58%)
Passengers Per Service Hour		
Cost Recovery with Partnership	14.3%	15.32%
Cost Recovery without Partnership	1.7%	3.32%
<b>Cost Recovery 16% Target</b>		
Net Cost/Passenger with Partnership	\$7.83	\$21.95

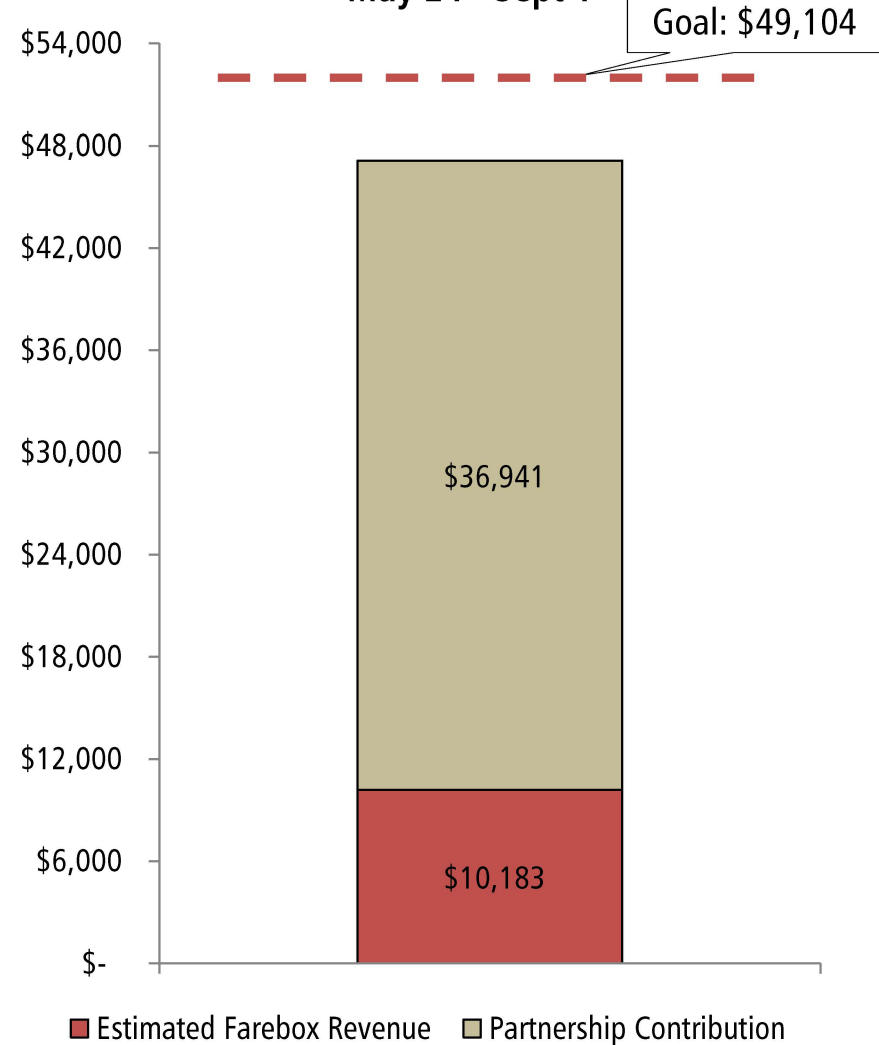


# Cost Recovery Comparison

2013 Season  
July 9 - Sept 28



2014 Season  
May 24 - Sept 1



# Gig Harbor Trolley

## On Board Survey completed by 211 passengers

- 97% very satisfied or somewhat satisfied with trolley & only 1% dissatisfied
- 92% very likely to somewhat likely to recommend the trolley
- Trip purpose: 45% shopping & errands, 31% restaurants, 17% to reach a boat
- Traveling to local destinations including Farmers Markets, Downtown, Uptown, library & the harbor

## Merchants Survey completed by 17 merchants

- 24% think trolley increased the number of customers who visited their business
- 65% think trolley positively impacted tourism at their business
- 24% think trolley positively impacted their business's revenue
- 88% think trolley added benefit to Gig Harbor community.



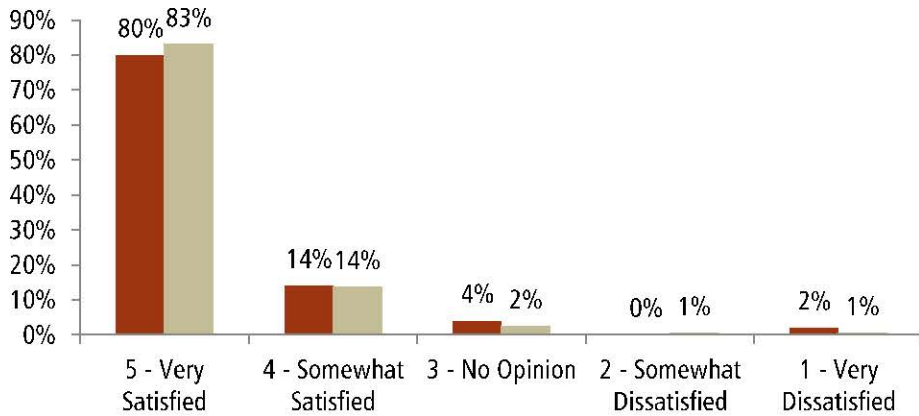




# Rider Survey Results

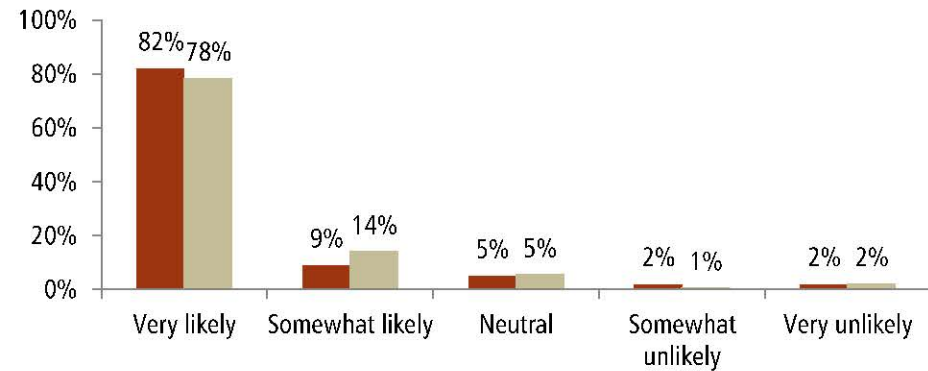
### Satisfaction with the Trolley

2013 2014

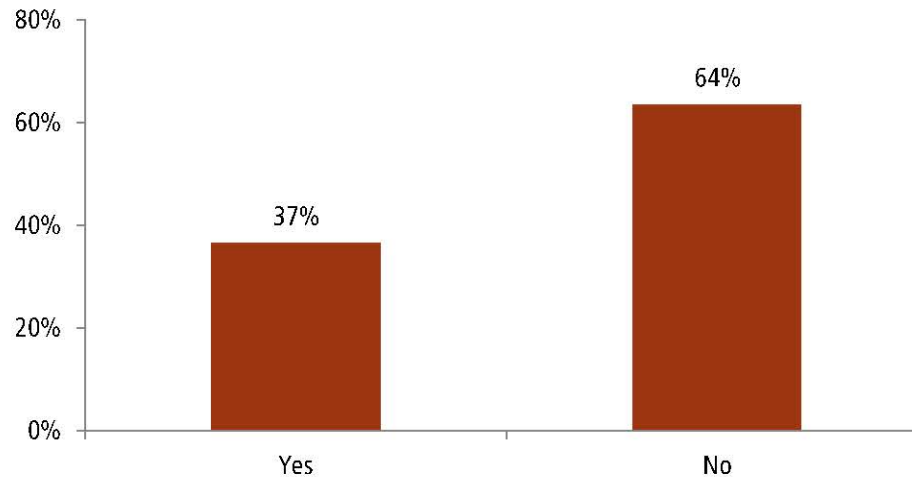


### How likely are to recommend the Trolley to others?

2013 2014



### Did you ride the trolley last year?

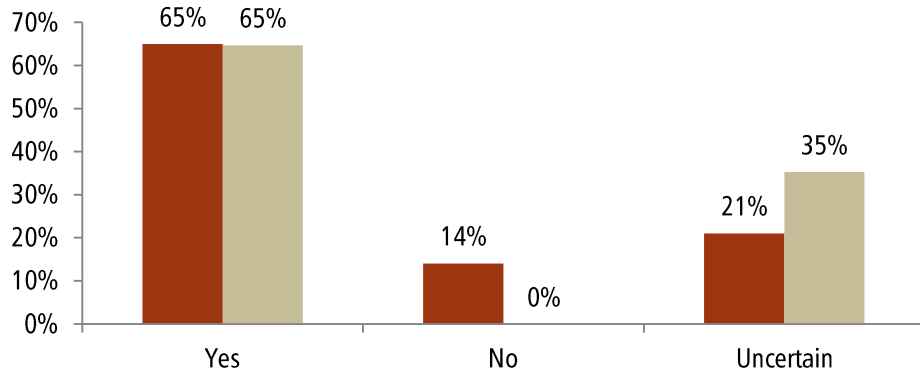




# Merchant Survey Results

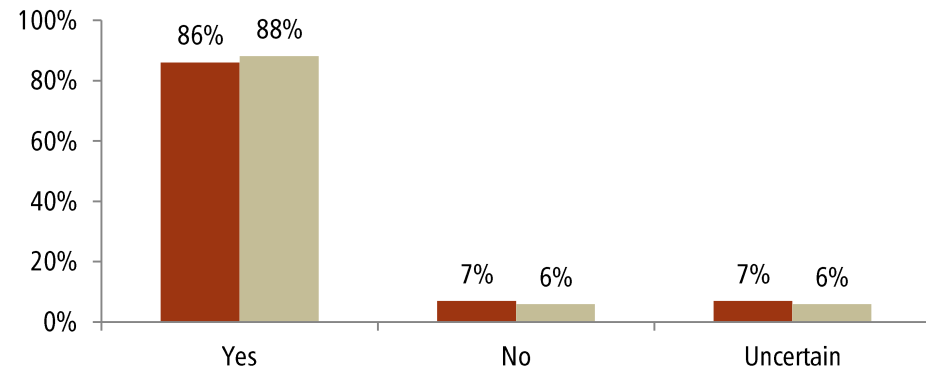
**Do you think the Trolley positively impacted tourism at your business?**

■ 2013 ■ 2014



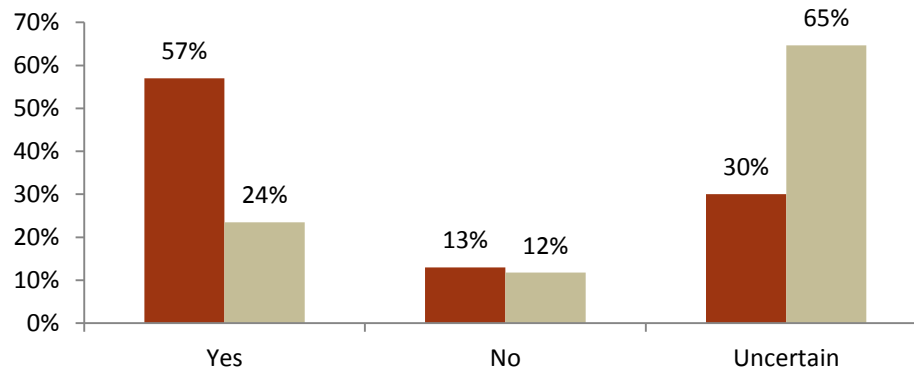
**Do you think the Trolley added benefit to the Gig Harbor Community?**

■ 2013 ■ 2014



**Do you think the Trolley increased the number of customers who visited your business?**

■ 2013 ■ 2014





# Next Steps

- PT & Gig Harbor Stakeholder Coordination, October – December 2014
  - 2015 Season Span
  - Route & Schedule Details
  - 2015 Marketing Discussions
- Cost Sharing Agreement Finalized by February 28, 2015
- Pierce Transit Schedules Final & to Printer in March 2015



## Business of the City Council City of Gig Harbor, WA

**Subject: Public Hearing, First Reading and Adoption of Ordinance – Moratorium on Marijuana Related Uses.**

**Proposed Council Action:** Hold a Public Hearing and consider testimony, deliberate and make a motion to adopt at first reading.

**Motion:** Move to approve Ordinance No. 1301 establishing a 12-month moratorium on all marijuana related uses and amending the Planning Commission work program to begin review of amendments to GHMC 17.63 at their first regularly scheduled meeting in May 2015.

**Dept. Origin:** Planning Department

**Prepared by:** Lindsey Sehmel - AICP, Senior Planner

WS

**For Agenda of:** September 22, 2014

**Exhibit:** • Ordinance

**Concurred by Mayor:**

**Approved by City Administrator:**

**Approved as to form by City Atty:**

**Approved by Finance Director:**

**Approved by Department Head:**

Initial &  
Date

*JS* 9/17/14  
*RW* 9/17/14  
via email 9/15/14  
N/A  
*JS* 9/15/14

<b>Expenditure Required</b>	<b>Amount Budgeted</b>	<b>Appropriation Required</b>	\$ 0
-----------------------------	------------------------	-------------------------------	------

### INFORMATION/BACKGROUND

Initiative-502 was approved by the voters of Washington State in November of 2012, approving recreational marijuana use for adults. The Washington State Liquor Control Board (WSLCB) has been working to outline the process and procedures for implementation of the new law, establishing rules for the growing, processing, and retail of recreational marijuana.

In January 2014, the Washington State Attorney General (AG) issued an advisory opinion identifying that cities are not pre-empted by the passage of I-502 to define land use regulations appropriate for the citing of such uses.

Additionally, the Court of Appeals, on March 31, 2014 in *Cannabis Action Coalition v. City of Kent*, held that despite the authorizing language in RCW 69.51A.085, collective gardens are illegal uses.

On April 14, 2014 City Council approved Ordinance No. 1290 immediately establishing an emergency moratorium for all marijuana related uses within the City of Gig Harbor. This ordinance directed staff to prepare amendments to the municipal code to address concerns around a lack of protection from 'non-traditional' school sites in addition to the repeal of medical marijuana uses within city limits.



A public hearing on Ordinance No 1290 was held on June 9, 2014 specific to the adopted moratorium.

On June 23, 2014 City Council directed staff to expand the scope of pending amendments identified in Ordinance No. 1290 to address additional items of concern.

On July 21, 2014 City Council held a special study session meeting to address the concerns raised by the community and consider the best approach to amend Gig Harbor Municipal Code 17.63.

August 11, 2014 City Council held first reading and a public hearing on the proposed amendments to GHMC 17.63.

August 29, 2014 the Pierce County Superior Court upheld the City of Fife's ban on all marijuana uses within the City of Fife.

On September 8<sup>th</sup>'s second reading, City Council directed staff to prepare a 12-month moratorium regarding all marijuana related uses, anticipating additional guidance from the legislature and the courts in the near future, including statutory or precedential direction on whether a city can prohibit all marijuana uses within its jurisdiction, as ruled in the Fife matter.

Draft Ordinance No. 1301 has been prepared under City Council directive. A Public Hearing and 1<sup>st</sup> reading will occur on September 22<sup>nd</sup>. City Council should consider adoption at 1<sup>st</sup> reading to avoid any lapse in time between the existing moratorium (Ord 1290) and the newly proposed moratorium.

### **STAFF ANALYSIS**

Staff recommends adoption of the proposed moratorium due to the continuously changing legal issues relating to Initiative-502.

In order to adopt at first reading, City Council must have a majority plus one approving passage.

### **RECOMMENDATION/MOTION**

Hold a Public Hearing and consider testimony, deliberate and make a motion to adopt at first reading.

**Motion:** Move to approve Ordinance No. 1301 establishing a 12-month moratorium on all marijuana related uses and amending the Planning Commission work program to begin review of amendments to GHMC 17.63 at their first regularly scheduled meeting in May 2015.

**ORDINANCE NO. 1301**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING; ESTABLISHING A MORATORIUM ON THE SITING, ESTABLISHMENT AND OPERATION OF ANY STRUCTURES OR USES RELATING TO ALL MARIJUANA RELATED USES; ESTABLISHING A MORATORIUM ON THE SUBMISSION OF ANY BUSINESS LICENSE APPLICATIONS FOR SUCH USES; SETTING TWELVE MONTHS AS THE EFFECTIVE PERIOD OF THE MORATORIUM; AND ESTABLISHING AN EFFECTIVE DATE.**

---

WHEREAS, Washington voters approved Initiative 502 (I-502) in 2012, which, among other provisions, allows persons 21 years old and older to legally possess one-ounce of useable marijuana; and

WHEREAS, I-502 legalized certain levels of possession of marijuana along with the production, processing, and retail sales of marijuana and directed the Washington State Liquor Control Board (WSLCB) to promulgate rules for the issuance of licenses by the WSLCB to such producers, processors, and retailers; and

WHEREAS, the WSLCB adopted rules pertaining to licensing of the producers, processors, and retailers, promulgated at chapter 314-55 of the Washington Administrative Code; and

WHEREAS, on September 23, 2013, the City Council approved Ordinance No. 1271 regulating marijuana-related uses in the City, codified at chapter 17.63 of the Gig Harbor Municipal Code; and

WHEREAS, the Washington State Attorney General issued an advisory opinion in January 2014 that states municipalities can prohibit state-licensed marijuana business within a city's boundaries or impose zoning and other land use regulations pertaining to such businesses; and

WHEREAS, on March 31, 2014, the Court of Appeals, Division I, in *Cannabis Action Coalition v. City of Kent*, held that despite the authorizing language in RCW 69.51A.085, collective gardens are illegal uses; and

WHEREAS, discussions between the Office of the Superintendent of Public Instruction (OSPI), the Peninsula School District, the City of Gig Harbor, and the WSLCB brought to the City's attention areas of concern regarding non-traditional educational sites funded by OSPI but not recognized in the permitting of licenses by WSLCB; and

WHEREAS, as a result, on April 14, 2014, the City approved Ordinance No. 1290 adopting an immediate six-month moratorium on applications for marijuana uses while the City considered regulations to address the definition of "secondary school" and the outcome of the *City of Kent* case identified above; and



WHEREAS, the City Council held several public meetings to discuss the appropriate provisions for regulation of marijuana uses in the City and during this period the Pierce County Superior Court, on August 29, 2014, upheld the City of Fife's ban on all marijuana uses within the City of Fife; and

WHEREAS, the legal landscape relating to marijuana uses is in continued flux and development, and the City Council anticipates and desires additional guidance from the legislature and the courts in the near future, including statutory or precedential direction on whether a city can prohibit all marijuana uses within its jurisdiction; and

WHEREAS, the secondary impacts associated with marijuana related uses could include crimes against the businesses as a result of the products maintained on the site, increased criminal activity in areas around the businesses, loss of revenue for neighboring businesses, and exposure of marijuana uses to children; and

WHEREAS, the City will receive no additional funding from the state to provide necessary resources and enforcement; and

WHEREAS, the City Council may adopt a moratorium for a period of up to twelve months on the acceptance of certain development permit applications as long as it holds a public hearing and adopts a work plan as a part of the ordinance (RCW 35A.63.220, RCW 36.70A.390); and

WHEREAS, unless a zoning moratorium is imposed, marijuana related uses may seek to locate within the City of Gig Harbor while the City lacks the necessary tools to ensure that the location is appropriate and that the secondary impacts of such facilities are minimized and mitigated; and

WHEREAS, the City Council has determined that it is in the public interest to establish a 12-month moratorium on the acceptance of any development permit application or business license application for the siting, location or operation of any marijuana related use to allow the City to evaluate future amendments to chapter 17.63 of the Gig Harbor Municipal Code, up to and including a potential prohibition on marijuana uses, and on September 22, 2014, held a public hearing on the moratorium; and

WHEREAS, a moratorium is necessary to preserve the status quo until the City adopts appropriate zoning, health safety, and/or licensing regulations; Now, therefore,

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

Section 1. Marijuana Definitions.

A. "Collective garden" means any place, area, or garden where qualifying patients engage in the production, processing, and delivery of marijuana for medical use as set forth in Chapter 69.51A RCW and subject to the limitations therein, and as further limited by case law.

B. "Marijuana" means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature

stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plants, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant which are incapable of germination.

C. "Marijuana processor" means a person licensed by the State Liquor Control Board to process marijuana into usable marijuana and marijuana infused products, package and label usable marijuana and marijuana infused products for sale in retail outlets, and sell usable marijuana and marijuana infused products at wholesale to marijuana retailers.

D. "Marijuana producer" means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

E. "Marijuana related use" means any use where a marijuana producer, marijuana processor, marijuana retailer, or collective garden are established or proposed.

F. "Marijuana retailer" means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana infused products in a retail outlet.

#### Section 2. General Definitions.

A. "Exempt development permits" shall include any permit application for a structure or use/operation of property for any marijuana related use, as defined in this ordinance, that is subject to the vested rights doctrine, and that was submitted to the City and determined by the City staff to be complete on or before the effective date of this ordinance.

B. "Non-Exempt development permits or non-exempt business license" shall include any permit or business license application for a structure or use/operation of property for any marijuana related use, as defined in this ordinance, that is:

1. a permit application that is not subject to the vested rights doctrine and/or that was submitted to the City after the effective date of this Ordinance; and/or
2. a business license application for use/operation of property for marijuana production, marijuana processing or marijuana retailing, as defined in this Ordinance that was submitted to the City either before or after the effective date of this Ordinance.

Section 3. Findings. The recitals set forth above are hereby adopted as the Gig Harbor City Council's findings in support of the moratorium imposed by this ordinance.

Section 4. Moratorium Imposed. The City Council hereby imposes a twelve month moratorium on the acceptance of all non-exempt development permits and business license applications, as defined in this ordinance. All such non-exempt development permit and business license applications shall be rejected and returned to the applicant. With regard to the City's acceptance of any exempt development permit applications, such acceptance shall only allow processing to proceed, but shall not constitute an assurance that the application will be approved.

Section 5. Duration of Moratorium. The moratorium set forth in this ordinance shall be in effect for a period of twelve months from the effective date of this ordinance and shall



automatically expire after twelve months unless the same is extended as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the Gig Harbor City Council.

Section 6. Work Plan; Referral to Planning Commission. The Gig Harbor Planning Commission is hereby authorized and directed to develop a draft ordinance to amend chapter 17.63 of the Gig Harbor Municipal Code regarding I-502 marijuana uses, including but not limited to amending the definitions found in chapter 17.63 GHMC, analyzing established land use zoning districts for propriety of marijuana related uses, prohibiting collective gardens consistent with the ruling in *Cannabis Action Coalition v. City of Kent* identified above, and making any other recommendations in response to changes in law. Considering the existing work schedule of the Planning Commission, the Planning Commission shall begin work on the draft amendments by their first regularly scheduled meeting in May 2015 and hold a properly noticed public hearing and prepare final recommendation to City Council on their draft amendments by the end of June 2015. The Planning Director shall transmit the draft ordinance to the Department of Commerce and issue a SEPA determination. The draft ordinance shall be presented for City Council consideration at the first regular meeting in July of 2015, and a final ordinance adopted as reasonably soon thereafter as the City Council can hold a public hearing and complete deliberations on the ordinance.

Section 7. Transmittal to Department. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

Section 8. 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 9. Termination of Moratorium under Ordinance No. 1290. Upon the effective date of this ordinance, the moratorium established under Ordinance No. 1290 is hereby terminated.

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 22<sup>nd</sup> day of September, 2014.

CITY OF GIG HARBOR

\_\_\_\_\_  
Mayor Jill Guernsey

ATTEST/AUTHENTICATED:

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

APPROVED AS TO FORM:  
Office of the City Attorney

---

Angela G. Summerfield

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



**Business of the City Council  
City of Gig Harbor, WA**

**Subject:** Public Hearing and First Reading of Ordinance-Railing Design Standards-Historic District

**Proposed Council Action:** Hold a public hearing, review proposed amendments and develop findings for the second reading of ordinance

**Dept. Origin:** Planning Department

**Prepared by:** *PK* Peter Katich  
Senior Planner

**For Agenda of:** September 22, 2014

**Exhibits:** Draft Ordinance & Planning Commission Recommendation dated July 17, 2014

Initial & Date

**Concurred by Mayor:**

**Approved by City Administrator:**

**Approved as to form by City Atty:**

**Approved by Finance Director:**

**Approved by Department Head:**

*PK 9/16/14*  
*RW 9/16/14*  
*email 9/15/14*  
*N/A*  
*JK 9/16/14*

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

The city's design standards set forth in Gig Harbor Municipal Code (GHMC) Section 17.99.540-Siding & Trim-Historic District, apply to all development within the Historic District. The Historic District encompasses the city's DB Downtown Business, WC Waterfront Commercial, WR Waterfront Residential, WM Waterfront Millville, R-1 Single-Family Residential, R-2 Medium-Density Residential, C-1 and B-2 Zoning Districts, and the balustrade design standard provides for the single upper/lower rail design option on a district-wide basis, and a second horizontal cable design option for those development sites located within the city's waterfront zones if a "more nautical" look is desired.

While the current railing design requirement works well for some historic residential and commercial structures, it is very limiting for non-historic homes and commercial structures that often can benefit from more contemporary railing design than is currently allowed. In this regard, the Historic District is located within the lower portion of the city's "view basin" where many homes and businesses have scenic views of Gig Harbor Bay. Many property owners desire to minimize view obstruction through the use of horizontal cable railings and solid panel systems, including clear glass railings that currently are either only allowed in the waterfront zoning districts that are found within the overall Historic Overlay District (horizontal cable railings) or not allowed at all (panel systems including clear glass railings). Such railings



minimize the view disruption associated with the currently allowed railing design and solid panel/clear glass railings help shield the deck area from the prevailing winds that can impact the use of an outdoor deck. Such railings also require less routine maintenance which is appealing to many property owners.

In order to use a railing design that doesn't comply with the current code requirement, the only relief for a property owner is to file an application with the city for approval of a design alternative. The cost and time associated with that process serves as a deterrent to many who desire a different style railing than currently allowed by the city. A survey of the Historic District would indicate that many decks have been constructed with railing systems that don't comply with the current code requirement. These decks typically have been constructed without permits from the city.

Last, since the existing railing requirement applies to "all development," such overwater construction as piers, docks and ramps that include the use of railings has been subject to the requirement. Overwater development is strictly regulated by state and federal resource agencies that attempt to minimize the amount of overwater construction that occurs along the shorelines of Puget Sound, including Gig Harbor Bay, to limit impacts to aquatic species and habitat. New, light weight pier and ramp designs that use aluminum and composites don't comply with the current railing requirement and the approval of a design alternative or design exception by the city is required in order to allow their use.

The city's Design Review Board (DRB) met twice to consider this matter and to develop an amendment to the current requirement that better serves the needs of the community. The DRB recommended a three tiered approach to the Planning Commission for its consideration, which the Commission has recommended to the City Council for approval with minor revisions to the DRB recommended draft. The first tier would be a railing requirement that applies to either existing historic structures or those that are eligible for listing per GHMC Section 17.97.040. The second tier applies to those structures that aren't listed or are not eligible for listing. The last tier addresses overwater piers, docks and ramps. The formal design alternative process where either the DRB or Planning Director has the authority to grant relief to a party that can demonstrate that a proposed railing design approach is equal or superior to the code requirement would continue to be available for those railing designs not allowed by the proposed code amendments.

### **ENVIRONMENTAL ANALYSIS**

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the proposed amendments on July 30, 2014 per WAC 197-11-340(2). The appeal period for the DNS expired on August 20, 2014. No appeals were filed.

### **FISCAL CONSIDERATION**

None

### **BOARD OR COMMITTEE RECOMMENDATION**

At its March 6, 2014 meeting, the City Design Review Board recommended the draft amendments to the Planning Commission for its review and recommendation to City Council. On June 26, 2014, the Planning Commission unanimously recommended the draft ordinance to the City Council for consideration.



**RECOMMENDATION / MOTION**

Hold a public hearing, review amendments and develop findings for the second reading of ordinance.

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

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE REGULATION; AMENDING SECTION 17.99.540 OF THE GIG HARBOR MUNICIPAL CODE TO REMOVE RAILING DESIGN REQUIREMENTS; ADDING A NEW SECTION 17.99.545 TO THE GIG HARBOR MUNICIPAL CODE TO INCORPORATE NEW RAILING DESIGN STANDARDS FOR THE HISTORIC DISTRICT; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.**

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WHEREAS, the City's current railing design standards applicable to all development within the Historic District provide limited design options that often do not meet the needs of the City's residents; and

WHEREAS, a developer may pursue alternative railing designs through the City's design alternative process, but such process takes time and resources, and some owners choose to undertake unpermitted construction activity not in compliance with existing railing design standards rather than go through the process; and

WHEREAS, on August 8, 2013 and March 6, 2014 the City's Design Review Board (DRB) reviewed the current railing design standards and recommended amendments to the Planning Commission for review and consideration; and

WHEREAS, on April 17, 2014 and June 26, 2014, the Planning Commission conducted a work study session and a joint work study session with the DRB, respectively, to discuss the DRB's recommendation and rationale for the recommendation; and

WHEREAS, on May 17, 2014 the Planning Commission conducted a public hearing on the proposed amendments; and

WHEREAS, on July 17, 2014 the Vice Chair of the Planning Commission signed and issued the Notice of Recommendation to the Mayor and Gig Harbor City Council for Gig Harbor Municipal Code amendment file #PL-ZONE-13-0006 that addresses the proposed railing amendment; and

WHEREAS, on September 22, 2014, the Gig Harbor City Council held a public hearing on the proposed amendments; and

WHEREAS, the Gig Harbor City Council desires to amend Chapter 17.99 GHMC to provide additional railing design options within the Historic District; now, therefore,

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

Section 1. Section 17.99.540 - Amended. Section 17.99.540 of the Gig Harbor Municipal Code is hereby amended to as follows:

**17.99.540 Siding and trim – Historic district.**

The following standards apply to all development within the historic district:

**A. Use siding materials that convey the same visual qualities as wood, brick, stone, stacked masonry or (in limited application) other unspecified materials.**

Siding materials are limited to horizontal lap siding (of any lap design) made of wood or cement-like materials; shingles made of cedar or of cement-like materials; board and batten (or panels with similarly spaced battens); brick; stone (real or cultured); nonscored, split-faced or ground-faced block (CMU); stucco on single-family homes. Stucco, tile, terra-cotta, concrete, spandrel glass, sheet siding (e.g., T1-11), corrugated metal panels and smooth-faced or scored concrete block may be used as accent materials, not to exceed 20 percent of any given facade. Standing seam metal siding with separately attached battens (with proportions similar to board and batten siding) may be used in gables only, or on up to 20 percent of any given facade.

~~**B. Incorporate vertical balusters into traditional balustrade design.**~~

~~Balustrades shall include both an upper and lower rail with turnings or two-inch balusters, vertically installed. The balusters shall be connected to a top and bottom rail in a traditional manner, i.e., the balusters shall join at their top and bottom as opposed to contemporary style face connections. Face connections may occur on the back side of the rail if, from the front side, a traditional appearance is maintained. In waterfront zones, horizontal cable may be used in lieu of vertical balusters if a more nautical look is desired; provided, that the balustrade include top and bottom rails supported by vertical post and caps. Rails, posts and caps shall have the appearance and dimensions of standard lumber products.~~

Section 2. Railing Graphic set forth in deleted subsection 17.99.540.B shall be relocated to new subsection 17.99.545.A.1.a (see below)

Section 3. Section 17.99.545 - Added. A new Section 17.99.545 is hereby added to the Gig Harbor Municipal Code to read as follows:



**17.99.545-Railings-Historic District**

The following standards shall apply to all development within the historic district. All overwater piers, docks and gangways are exempt from the requirements of this section.

**A. Use historically appropriate railing design for all structures either listed or eligible for listing on the city's Register of Historic Places.**

1. The railing design for all structures on the city's Register of Historic Places or eligible for listing on the register based on its architecture (refer to GHMC Section 17.97.040.A. and subsets 2, 3, 4, 7, 10, & 11) shall be one of the following options:

a. Railing design shall include both an upper and lower rail with turnings or nominal two-inch balusters, vertically installed. The balusters shall be connected to a top and bottom rail in a traditional manner, i.e., the balusters shall join at their top and bottom as opposed to contemporary-style connections. Face connections may occur on the back side of the rail if, from the front side, a traditional appearance is maintained.

**[Note: Insert Railing Graphic Here]**

b. Solid panel-style railing systems provided they are capped with a traditional, reduced scale railing consisting of a top rail. Clear glass and wire mesh-style panels are prohibited.

c. In waterfront zones, horizontal cable may be used in lieu of vertical balusters; provided that the railing design include top and bottom rails supported by spaced vertical posts with caps. Rails, posts, and caps shall have the appearance and dimensions of standard lumber products.

2. In all cases, continuity of design shall be utilized on any one level of a residential or non-residential structure. Hand railings utilized on stairways providing ingress and egress from decks and porches shall be designed to be consistent with the railing design of the decks and porches.

The following standards shall apply to all other development within the historic district:

**B. Use architecturally appropriate quality design for those structures that are either not listed or not eligible for listing on the city's Register of Historic Places.**

1. The railing design for all structures not on the city's Register of Historic Places or not eligible for listing on the register shall be one of the following options:

a. Any railing design permitted by subsection 17.99.545.A above.

b. Clear glass panels are permitted provided the design includes a top and bottom rail.



c. Horizontal cable may be used in lieu of vertical balusters; provided the railing includes top and bottom rails supported by spaced vertical posts and caps.

2. In all cases, continuity of design shall be utilized on any one level of a residential or non-residential structure. Hand railings utilized on stairways providing ingress and egress from decks and porches shall be designed to be consistent with the railing design of the decks and porches. Wire mesh-style panels are prohibited.

Section 4. Severability. If any section, sentence, clause or phrase of the 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 5. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this \_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF GIG HARBOR

\_\_\_\_\_  
Mayor Jill Guernsey

ATTEST/AUTHENTICATED:

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

APPROVED AS TO FORM:  
Office of the City Attorney

\_\_\_\_\_  
Angela G. Summerfield

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



DEVELOPMENT SERVICES

## NOTICE OF RECOMMENDATION

### CITY OF GIG HARBOR PLANNING COMMISSION PL-ZONE-13-0006

**TO:** Mayor Guernsey and Members of the Council  
**FROM:** Jim Pasin, Vice Chair, Planning Commission  
**RE:** **PL-ZONE-13-0006-Proposed Amendment-Gig Harbor Municipal Code Draft Section 17.99.545-Railings/Historic District**  
**DATE:** July 17, 2014

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#### **Background:**

The city's design standards set forth in Gig Harbor Municipal Code (GHMC) Section 17.99.540-Siding & Trim-Historic District, apply to all development within the Historic District. GHMC Subsection 17.99.540.B addresses balustrade design and states the following:

"Balustrades shall include both an upper and lower rail with turnings or two-inch balusters, vertically installed. The balusters shall be connected to a top and bottom rail in a traditional manner, i.e., the balusters shall join at their top and bottom as opposed to contemporary-style face connections. Face connections may occur on the back side of the rail if, from the front side, a traditional appearance is maintained. In waterfront zones, horizontal cable may be used in lieu of vertical balusters if a more nautical look is desired; provided that the balustrade include top and bottom rails supported by vertical posts and caps. Rails, posts and caps shall have the appearance and dimensions of standard lumber products."

In the Historic District that encompasses the city's DB Downtown Business, WC Waterfront Commercial, WR Waterfront Residential, WM Waterfront Millville, R-1 Single-Family Residential, R-2 Medium-Density Residential, C-1 and B-2 Districts, the balustrade design standard provides for the single upper/lower rail design option on a district-wide basis, and a second horizontal cable design option for those development sites located within the city's waterfront zones if a "more nautical" look is desired.

While the current railing design requirement works well for some historic residential and commercial structures, it is very limiting for non-historic homes and commercial structures that often can benefit from more contemporary railing design than is currently allowed. In this regard, the Historic District is located within the lower portion of the city's "view basin" where many homes and businesses have scenic views of Gig Harbor Bay. Many property owners desire to minimize view obstruction through the use of horizontal cable railings and solid panel systems, including clear glass railings that currently are either only allowed in the waterfront zoning districts that are found within the overall Historic Overlay District (horizontal cable railings) or not allowed at all (panel systems including clear glass railings). Such railings minimize the view disruption associated with the currently allowed railing design and solid panel/clear glass railings help shield the deck area from the prevailing winds that can impact the



use of an outdoor deck. Such railings also require less routine maintenance which is appealing to many property owners.

In order to use a railing design that doesn't comply with the current code requirement, the only relief for a property owner is to file an application with the city for approval of a design alternative. The cost and time associated with that process serves as a deterrent to many who desire a different style railing than currently allowed by the city. A survey of the Historic District would indicate that many decks have been constructed with railing systems that don't comply with the current code requirement. These decks typically have been constructed without permits from the city.

Last, since the existing railing requirement applies to "all development," such overwater construction as piers, docks and ramps that include the use of railings has been subject to the requirement. Overwater development is strictly regulated by state and federal resource agencies that attempt to minimize the amount of overwater construction that occurs along the shorelines of Puget Sound, including Gig Harbor Bay, to limit impacts to aquatic species and habitat. New, light weight pier and ramp designs that use aluminum and composites don't comply with the current railing requirement and the approval of a design alternative or design exception by the city is required in order to allow their use.

The city's Design Review Board (DRB) met twice to consider this matter and to develop an amendment to the current requirement that better serves the needs of the community. The DRB recommended a three tiered approach to the Planning Commission for its consideration. The first tier would be a railing requirement that applies to either existing historic structures or those that are eligible for listing per GHMC Section 17.97.040. The second tier applies to those structures that aren't listed or are not eligible for listing. The last tier addresses overwater piers, docks and ramps. The formal design alternative process where either the DRB or Planning Director has the authority to grant relief to a party that can demonstrate that a proposed railing design approach is equal or superior to the code requirement would continue to be available for those railing designs not allowed by the proposed code amendments.

#### **Planning Commission Review:**

The Planning Commission held a work-study session for the proposed amendment on April 17, 2014. A public hearing was held on May 1, 2014. Public notice was provided in the Gateway, and on the City's webpage. Two persons testified at the hearing and one submitted written comments requesting that additional flexibility be added to the proposed draft beyond that recommended by the DRB. The Planning Commission and DRB held a joint work study session to review the public testimony, and to discuss the rationale for the proposed approach on June 26, 2014. After much deliberation, the Planning Commission recommended that the proposed regulations, as further amended at the meeting, be forwarded to City Council for final consideration.

#### **Findings of Fact:**

The Planning Commission makes the following findings of fact to support their recommendation to amend the city's existing railing design guideline:

1. The Commission finds that the existing railing design guidelines that apply to residential and commercial development in the Historic District provide limited design options that often don't meet the needs of the city's residents, can result in additional cost and time delays while a deck proponent pursues relief through the city's design alternative process, or in noncompliance through unpermitted construction activity.



2. The Commission finds that the proposed amendment will further the Residential Development Design and Historic Development and Design goals, policies and objectives of the city's Comprehensive Plan.
3. The Commission finds that the proposed amendment advances the public interest.
4. On August 8, 2013 and March 6, 2014, the DRB reviewed the existing railing design guidelines and the issues related to them. At the March 6<sup>th</sup> meeting, the DRB recommended a draft set of amendments to the Planning Commission for its review and consideration.
5. On April 17, 2014, the Planning Commission conducted a work study session to review the issues associated with the proposed amendments and consider the draft approach proposed by the DRB.
6. On May 1, 2014, the Planning Commission conducted a public hearing on the proposed amendments. Two persons spoke at the hearing and one submitted written comments. The former party questioned the proposed approach and requested additional revisions to the proposed amendment to add increase design flexibility to the proposal.
7. On June 26, 2014, the Planning Commission and the DRB conducted a joint work study session to review the testimony from the public hearing, further discuss the DRB's rationale for the proposed draft and to make a final recommendation on the draft.
8. After deliberating on the matter, the Commission recommended additional minor revisions to the draft as set forth in attached Exhibit "A" and unanimously recommended that the draft be forwarded to the City Council for consideration.

Jim Pasin, Vice Chair  
Planning Commission



Date 7 / 17 / 2014

Wade Perrow

#1

**From:** Wade Perrow  
**Sent:** Wednesday, April 30, 2014 4:12 PM  
**To:** 'Guernsey, Jill'  
**Subject:** FW: Written Comment for Hearing on Historic District Railing Amendments  
**Attachments:** 9109 Harborview Dr. Exterior 9.2012 043.jpg; 9109 Harborview Dr. Exterior 9.2012 059.jpg; July 2012 Harborview Houses 014.jpg; Wade P Marked-up Proposed Railing Changes 1.29.14.pdf

Mayor,

*It is very frustrating when I am told Development Projects submitted for Planning Dept. permit review cannot be reviewed because the staff is so busy.*

*I am even more frustrated when I am informed on Monday they is a Public Hearing in 4 days to change the way staff can control handrails. I guess handrails must be a bigger issue than reviewing Development project that have been in for review for 8 weeks.*

*I am starting to question the priorities your administration is implementing with the Planning Dept., what I hear and what I experience suggest more of the same from the Planning Dept. I was hoping that would not be the case.*

**Wade Perrow**  
 Gig Harbor, Wa  
 (253)853-2308 Direct Line  
 (253)973-1728 (Cell)

**From:** Wade Perrow  
**Sent:** Tuesday, April 29, 2014 10:34 AM  
**To:** 'sehmell@cityofgigharbor.net'; 'katichp@cityofgigharbor.net'  
**Cc:** DBOE@BOEARC.COM; Lisa Klein  
**Subject:** Written Comment for Hearing on Historic District Railing Amendments

Dear Planning Commission Members,

As a property owner and resident within the Historic District of Gig Harbor, I would like to have the following comments considered by you the Planning Commission, regarding the proposed changes and Historic District Railing Amendment.

Attached is a marked-up copy of Section B, in which I have noted three areas of concern. My comments are based on what is the key overwriting goal and objective of the proposed ordinance ? .....and how will the proposed changes impact the visual appearance of the structures within the historic district, most which are not historic. Furthermore, are the changes actually imposing upon the property owner requirements that will lead to designed trickery or inappropriate applications to support the specific language ?

**Question that needs to be addressed, based on the Marked up Copy of the Proposed Amendment**

#1 How will a top and bottom rails on clear glass panels make the glass rail superior or more compatible with Historic Design than they would be without a top and bottom rail ? Why are they needed at all ?

#2 How will Rails and Posts and Caps, that have the appearance and dimensions of standard lumber products, on a cable railing make it more visually superior or more compatible with historic design? Why is this even a suggestion ?



#3 How will limiting the number of Rail Styles make a structure more compatible with Historic Places? Why is this a suggestion?

Legislating good taste, is not possible or realistic. Legislating how a simple railing can and should be constructed in the context of the entire structure is limiting the opportunity for good balance designed to take place. As Planning Commission members you need to respect the rights of the citizens, the property owners, the architects and designers that will attempt to create a quality design without unnecessary and unneeded encumbrances being placed upon them.

Attached are photos that I believe represent quality design that do not compromise Historic District Design expectations any more than they would had a top or bottom rail been incorporated, the drawback to the suggested amendment is people would have their view impacted by a rail that is not needed, by building code. The only reason there would need to be a top rail is to comply with suggested standards you are reviewing tonight.

I would ask you, **Members of the Planning Commission**, strongly support the removal of the sections highlighted in red on the attached marked up copy of the proposed amendment. The suggested wording highlighted in red does not make for better design it only inhibits design from taking place.

Thank you in advance for considering the comments regarding the proposed railing changes. **Limiting design freedom does not make for better design**; having to maybe spend over \$2,500 to request director determination or \$8,000 to get Hearing Examiner determination to allow for acceptable design to take place is not a good result. I know..... I have been there and I do not wish to see others go there for no reason. PLEASE consider what is the really value of the statements in red; what is it you if you support the wording in red are trying to do or protect. Also stop and then look and see is there a negative effect as well to having the requirements placed on the properly owner.

**Wade Perrow**

Gig Harbor, Wa  
(253)853-2308 Direct Line  
(253)973-1728 (Cell)















WADP PERROW Comments 4/29/14  
OW Item # 1, 2, 3 included in e-mail

a. Railing design shall include both an upper and lower rail with turnings or nominal two-inch balusters, vertically installed. The balusters shall be connected to a top and bottom rail in a traditional manner, i.e., the balusters shall join at their top and bottom as opposed to contemporary-style connections. Face connections may occur on the back side of the rail if, from the front side, a traditional appearance is maintained.

b. Solid panel-style railing systems provided they are capped with a traditional, reduced scale railing consisting of a top rail. Clear glass and wire mesh-style panels are prohibited.

c. In waterfront zones, horizontal cable may be used in lieu of vertical balusters; provided that the railing design include top and bottom rails supported by spaced vertical posts with caps. Rails, posts, and caps shall have the appearance and dimensions of standard lumber products.

2. No more than two railing styles may be utilized on any one level of a residential or commercial structure. Hand railings utilized on stairways providing ingress and egress from decks and porches shall be designed to be consistent with the railing design of the decks and porches

The following standards shall apply to all other development within the historic district:

**B. Use architecturally appropriate quality design for those structures that are either not listed or not eligible for listing on the city's Register of Historic Places.**

1. The railing design for all structures not on the city's Register of Historic Places or eligible for listing on the register shall be one of the following options:

a. All railing designs permitted by subsection 17.99.545.A above.

b. Clear glass panels are permitted provided the design includes a top and bottom rail.

c. In all zones, horizontal cable may be used in lieu of vertical balusters; provided the railing includes top and bottom rails supported by spaced vertical posts and caps. Rails, posts and caps shall have the appearance and dimensions of standard lumber products.

2. No more than two railing styles may be utilized on any one level of a residential or commercial structure. Hand railings utilized on stairways providing ingress and egress from decks and porches shall be designed to be consistent with the railing design of the decks and porches. Wire mesh-style panels are prohibited.



#2

Wade Perrow

**From:** Katich, Peter <KatichP@cityofgigharbor.net>  
**Sent:** Monday, June 23, 2014 4:28 PM  
**To:** Wade Perrow  
**Cc:** Kester, Jennifer; Sehmel, Lindsey  
**Subject:** RE: Historic District Railing Amendments NOPM

Hi Wade: the Planning Commission public comment period for the proposed amendment has closed and no new public comments or public information can be submitted at this point in the process. The Planning Commission received your written and oral comments as part of the public hearing process. I also included your original written comments in the information packet provided today to the Commission and DRB members for this Thursday's meeting. Thank you for your continuing interest and involvement in the city and its code amendment process. Peter

Peter Katich  
Senior Planner  
City of Gig Harbor  
Planning Department  
253-853-7616-direct  
253-851-6170  
253-858-6408-FAX  
katichp@cityofgigharbor.net

"Dedicated to public service through teamwork and respect for our community."

**From:** Wade Perrow [mailto:wade@wpconstruction.com]  
**Sent:** Monday, June 23, 2014 11:32 AM  
**To:** Katich, Peter  
**Subject:** Historic District Railing Amendments NOPM

Peter,

*It's my understanding that the Planning Commission and the Design Review Board will be having a Joint Meeting on June 26<sup>th</sup> to discuss rails. I also understand that this is not a public meeting so NO comments will not be received at the meeting, per the attached notice. The attached notice did not indicate whether public information can be submitted for consideration, which I'm doing with this email as I believe the information I am providing should be considered in the discussion with the Planning Commission and the Design Review Board.*

**What is the Key Overriding Reason to make Changes ?**

*The Planning Director ( Jennifer) in her presentation to the Planning Commission on May 1,2014 made it clear **the overriding reason for making the changes was to reduce the number of administrative interpretations regarding rails.** I totally agree this is a good step forward in developing a process where projects can be approved without added steps. With this key overriding purpose of the changes..... I question certain elements of the proposed change, as I believe some of the wording will only lead to further administrative interpretations and not improve design. Previously I submitted information which I hope will be considered as it was made part of the public record. Those items that I previously submitted were referenced on the attached marked up marked up copy of the cities proposed railing changes.*

#1 How will a top and bottom rails on clear glass panels make the glass rail superior or more compatible with Historic Design than they would be without a top and bottom rail? By eliminating only a few words "~~providing the design includes top and bottom rail~~", the city



could eliminate the need for unnecessary administrative determinations requests, and not compromise design goals with these words removed.

#2 How will Rails and Posts and Caps, that have the appearance and dimensions of standard lumber products, on a cable railing make it more visually superior or more compatible with historic design? By eliminating only a few words "~~Rails, post and caps shall have the appearance and dimension of standard lumber products.~~", the city could eliminate the need for some administrative determinations, if these words could be removed. *Where is the definition of standard lumber products located in the city's ordinance, to determine what is standard and what is not standard?*

#3 How will limiting the number of Rail Styles make a structure more compatible with Historic Places? By eliminating only a few words "~~no more than two railing styles may be utilized on any one level of a resident or commercial structure.~~", the city could eliminate the need for some administrative determinations and not compromise design, if these words could be removed.

If I understand the Key Overriding Reason to make Changes the Planning Director ( Jennifer) presented to the Planning Commission it clear the overriding reason for making the changes was to reduce the number of administrative interpretations regarding rails.

*Thank you for taking into consideration the suggestions that removing unneeded and subjective wording to accomplish the overriding objective of not having to have the director rule on as many administrative design matters. The changes will not make design better nor will it make it worse but it will mean projects can move forward without additional review steps. The city needs to be careful in what is needed .....to protect the integrity of the city build environment and when efforts to do so are stepping into areas of regulating good taste.*

Sincerely,

**Wade Perrow**  
**WPC**  
Gig Harbor, Wa  
(253)853-2308 Direct Line  
(253)973-1728 (Cell)

**APRIL 29, 2014 SEC #1**

As a property owner and resident within the Historic District of Gig Harbor, I would like to have the following comments considered by you the Planning Commission, regarding the proposed changes and Historic District Railing Amendment.

Attached is a marked-up copy of Section B, in which I have noted three areas of concern. My comments are based on what is the key overwriting goal and objective of the proposed ordinance ? .....and how will the proposed changes impact the visual appearance of the structures within the historic district, most which are not historic. Furthermore, are the changes actually imposing upon the property owner requirements that will lead to designed trickery or inappropriate applications to support the specific language ?

**Question that needs to be addressed, based on the Marked up Copy of the Proposed Amendment**

#1 How will a top and bottom rails on clear glass panels make the glass rail superior or more compatible with Historic Design than they would be without a top and bottom rail ? Why are they needed at all ?

#2 How will Rails and Posts and Caps, that have the appearance and dimensions of standard lumber products, on a cable railing make it more visually superior or more compatible with historic design? Why is this even a suggestion ?

#3 How will limiting the number of Rail Styles make a structure more compatible with Historic Places? Why is this a suggestion?



Legislating good taste, is not possible or realistic. Legislating how a simple railing can and should be constructed in the context of the entire structure is limiting the opportunity for good balance designed to take place. As Planning Commission members you need to respect the rights of the citizens, the property owners, the architects and designers that will attempt to create a quality design without unnecessary and unneeded encumbrances being placed upon them.

Attached are photos that I believe represent quality design that do not compromise Historic District Design expectations any more than they would had a top or bottom rail been incorporated, the drawback to the suggested amendment is people would have their view impacted by a rail that is not needed, by building code. The only reason there would need to be a top rail is to comply with suggested standards you are reviewing tonight.

I would ask you, **Members of the Planning Commission**, strongly support the removal of the sections highlighted in red on the attached marked up copy of the proposed amendment. The suggested wording highlighted in red does not make for better design it only inhibits design from taking place.

Thank you in advance for considering the comments regarding the proposed railing changes. **Limiting design freedom does not make for better design**; having to maybe spend over \$2,500 to request director determination or \$8,000 to get Hearing Examiner determination to allow for acceptable design to take place is not a good result. I know..... I have been there and I do not wish to see others go there for no reason. PLEASE consider what is the really value of the statements in red; what is it you if you support the wording in red are trying to do or protect. Also stop and then look and see is there a negative effect as well to having the requirements placed on the properly owner.

**Wade Perrow**

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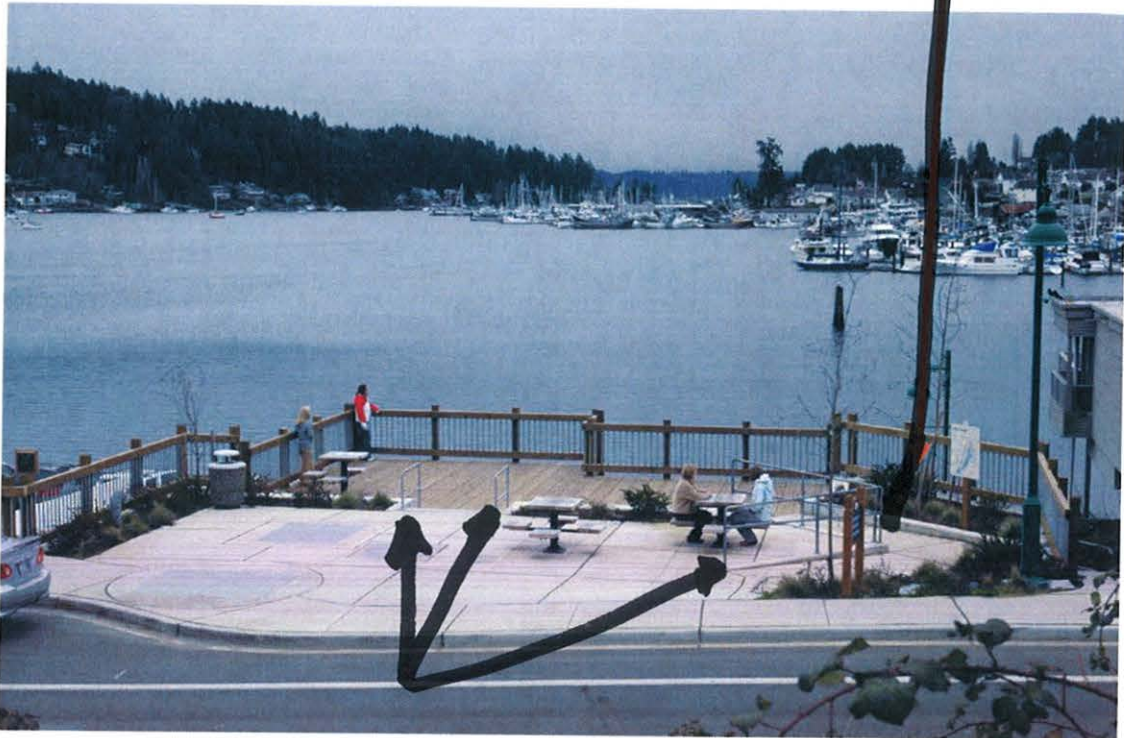
**11. Exhibits**

- 1. COVER SHEET
- 2. SAMPLE CONTRACT

*Proposed Changes  
Rules do not  
comply*

**Bogue Viewing Platform**

Hand railings utilized on stairways providing ingress and egress from decks and porches shall be designed to be consistent with the railing design of the decks and porches. Wire mesh-style panels are prohibited.



*THIS CITY PROPERTY WILL  
NOT CONFORM TO THE  
NEW CODE IF APPROVED*













**FOR SALE**  
851-7374





FOR SALE  
1851-7374





















**Business of the City Council**  
**City of Gig Harbor, WA**

**Subject:** Public Hearing and First Reading of Ordinance - Proposed amendments to GHMC relating to trees, vegetation and landscaping.

**Proposed Council Action:**  
Consider testimony and direct staff to prepare a final ordinance for second reading.

**Dept. Origin:** Planning Department

**Prepared by:** Lindsey Sehmel, AICP  
Senior Planner

*LNS*

**For Agenda of:** September 22, 2014

**Exhibits:** Draft Ordinance  
Planning Commission Recommendation

**Initial & Date**

**Concurred by Mayor:** *JS 9.17.14*  
**Approved by City Administrator:** *RW 9/17/14*  
**Approved as to form by City Atty:** *VIA email 9/16/14*  
**Approved by Finance Director:** *N/A*  
**Approved by Department Head:** *JK 9/16/14*

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

The proposed amendments have been approved as part of the adopted 2014 Planning Commission work program and are part of a larger proposal from the Design Review Board to help alleviate the irregular and unnatural site design and tree retention currently required under the Gig Harbor Municipal Code. These amendments allow for greater flexibility in the early stages of site design and development, providing a second option for landscaping that focuses on more natural appearing vegetation retention and replanting. While the total area (square footage) to be retained is not changed, sites are provided an additional option on how to retain through internal vegetation islands and meandering site buffers. These amendments do not alter or provide variation to the existing requirements for Zone Transition Buffers or Enhancement Corridors as required by GHMC 17.99.160 or 17.99.180.

In addition to vegetation retention design changes, amendments are proposed to remove fast growing and short-lived tree species from the definition of 'Significant Trees' found in GHMC 17.99, including Alders, Cottonwoods, and Poplar. In response to the removal of fast growing species the Planning Commission proposed an increase of tree retention requirements from the existing 20% of significant trees onsite to a 25% requirement.

These amendments also propose a change in the replacement requirements for illegally removed trees. The current practice of 3 replacement trees per every tree illegally removed has been amended to a one to one and a half ratio (1:1.5) replacement requirement, based on trunk diameter, for significant trees illegally removed after the site design approval process.

Trees illegally removed are proposed to be replanted with the same type and species in the general location of the removed tree. Replacement trees shall be a minimum of sixfeet in height for evergreens or two inches in caliper for deciduous trees.

**STAFF ANALYSIS**

These amendments allow for greater opportunity to create a more natural site design while meeting the Washington State Growth Management Act requirements as an urban environment. Staff believes that these amendments keep with the heritage and natural state of beauty often found within the City of Gig Harbor.

Staff recognizes this amendment package appears extensive due to the reorganization of the associated chapters and inclusion of the secondary option to site design. Staff is available for any questions regarding these amendments prior to the Public Hearing, please contact Lindsey Sehmel directly.

**BOARD OR COMMITTEE RECOMMENDATION**

The Design Review Board initiated discussion and need of these amendments in response to the quickly changing landscape of our urban environment. They formally requested City Council consider placing them on the Planning Commission work program, which was approved during the 2014 budget cycle process. The Design Review Board supports these amendments.

Planning Commission discussed the issue over 11 work study session meetings between November 2013 and May 2014, held a public hearing on March 6, 2014 and followed up with amendments to address issues raised at the public hearing. This item was part of the joint meeting with the City Council on February 3, 2014 which was held prior to public hearing and final recommendation. The Planning Commission recommends approval of these amendments as drafted.

**RECOMMENDATION / MOTION**

Consider testimony and direct staff to prepare a final ordinance for second reading.



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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO ZONING; AMENDING THE LANDSCAPING AND SCREENING CHAPTER TO PROVIDE GREATER FLEXIBILITY AND OPTIONS FOR THE LOCATION OF, PREFERRED PLANTINGS FOR, IRRIGATION OF, AND ENCROACHMENT INTO REQUIRED PERIMETER LANDSCAPING AREAS; AMENDING THE DEFINITION OF SIGNIFICANT VEGETATION TO REMOVE SHORT-LIVED, WEED-LIKE TREE SPECIES; INCREASING THE RETENTION PERCENTAGE OF SIGNIFICANT TREES FROM 20 PERCENT TO 25 PERCENT FOR NON-RESIDENTIAL, MULTIFAMILY AND RESIDENTIAL SUBDIVISIONS; INCREASING THE RATIO OF TREE REPLACEMENT DUE TO ILLEGAL TREE REMOVAL; RENAMING TITLE 17.78; REPEALING SECTION 17.78.050; ADDING SECTIONS 17.78.050 AND 17.78.092; AMENDING SECTIONS 17.78.010, 17.78.020, 17.78.030, 17.78.045, 17.78.060, 17.78.070, 17.78.090, 17.78.120, 17.98.040, 17.99.240, 17.99.590, 17.89.040, 17.90.040, 17.99.020, 17.99.160, 17.99.220, 17.99.300, AND 17.99.390 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

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WHEREAS, landscaping and buffering is intended to separate and/or screen structures and uses in land use design; and

WHEREAS, in a suburban or urban environment vegetative buffering and screening is rarely dense enough or effective at screening structures in the short term due to disease, windfall and/or property owners' actions; and

WHEREAS, builders, developers, site designers and civil engineers require greater flexibility and options in site design and allocation of retained vegetation in order to respect natural topography, maintain soil balance, and minimize large or extensive retaining walls; and

WHEREAS, the City Council desires to avoid the creation of long straight and/or thin bands of trees and understory which are either unnatural looking or unhealthy; and

WHEREAS, the amendments allow certain aspects of site development to weave into the vegetative setting and encourage the preservation and clustering of mature stands of existing trees and vegetation; and

WHEREAS, amending regulations to Gig Harbor Municipal Code 17.78 for trees, vegetation and landscaping requirements is desired to protect the health, safety, and welfare of citizens of the City; and

WHEREAS, the amendments provide additional aesthetic values allowing greater flexibility and options in site design and allocation of retained vegetation in order to respect the natural topography and existing natural environment; and

WHEREAS, these amendments provide environmental benefits, creating natural meanders and vegetation islands allowing for greater water infiltration points, improving noise reduction and clean air, as well as increased habitat and biodiversity; and

WHEREAS, preservation of native coniferous trees while allowing removal of faster growing deciduous species will yield to the greater retention of tree species valued by the Gig Harbor community; and

WHEREAS, increasing the replacement requirements for trees identified to be retained will create greater enhancement of areas meant for retention that were disturbed during or after construction; and

WHEREAS, the Planning Commission considered the draft amendments from November 2013 through June 2014; and

WHEREAS, the Planning Commission held a public hearing on March 6, 2014 regarding the proposed amendments; and

WHEREAS, in April and May of 2014 the Planning Commission made amendments to the proposed language in response to feedback from the public hearing; and

WHEREAS, on June 26, 2014 the Chair of the Planning Commission signed the Notice of Recommendation to City Council; and

WHEREAS, the Gig Harbor City Council held a public hearing on September 22, 2014, to take public testimony relating to this ordinance;

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

Section 1. Chapter 17.78 is hereby renamed, to read as follows:

Chapter 17.78 TREES, LANDSCAPING AND SCREENING

Section 2. Section 17.78.010 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.78.010 Intent.**

The intent of this chapter is to encourage the preservation and enhancement of the City of Gig Harbor's natural environment. It is also the intent of this chapter to establish standards for landscaping and to allow modulated landscape buffers and internal landscape islands and screening, in order to maintain or replace existing vegetation, provide physical and visual buffers between differing land uses, and lessen environmental and improve aesthetic impacts of development and to enhance the overall appearance of the city. It is also the intent to avoid untimely and haphazard removal or destruction of significant trees and vegetation while preserving important landscape characteristics. Notwithstanding any other provision of this chapter, trees and shrubs planted pursuant to the provisions of this chapter shall be types and ultimate sizes at maturity that will not impair scenic vistas.

Section 3. Section 17.78.020 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.78.020 Applicability.**



The standards as required by this chapter shall apply to all uses of land which are subject to site plan review, a land clearing permit, and to any new subdivision plat. GHMC 17.78.095 applies to all development in the area described by that section. Additionally, the requirements of Shoreline Master Program subsection 6.2.4, Regulations – Vegetation Conservation Strip, shall apply to all property within the jurisdiction of the city's shoreline master program.

Section 4. Section 17.78.030 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.78.030 Tree, Landscape and Screening Plans.**

A. A plan of the proposed landscaping and screening shall be incorporated into plans submitted for site plan review or projects which require hearing examiner review. The plans shall be drawn to scale and contain the following, in addition to the significant ~~vegetation plan~~ tree survey and tree retention ~~plan~~ survey required by GHMC 17.98.040:

1A. Parking and vehicle use areas, driveways and walkways;

2B. Buildings or structures, existing and proposed;

3C. All proposed new landscaping. Landscape plan shall include the location, species, diameter or size of ~~materials~~ plants using both botanical and common names. Drawings shall reflect the ultimate size of plant materials. Alternatively, a schematic landscape plan can be submitted showing planting zones. Each planting zone shall include typical shrub and groundcover species and typical size and spacing at planting. All landscape plans shall include the location, species, and diameter or size of all proposed trees;

4D. Schematic irrigation plan showing irrigation zones and proposed irrigation techniques within each zone ~~or a xeriscape plan~~ as set forth in GHMC 17.78.045~~(B)(C)~~;

5E. Identification of tree protection techniques.

B. Final landscape construction plans consistent with the landscape plans approved through the land use permit process shall be submitted with civil or building permits application.

Section 5. Section 17.78.045 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.78.045 General provisions.**

A. Removal of a dead, substantially diseased or damaged, or hazard tree is allowed upon submittal of written verification by an ISA certified arborist who states that removal of the tree is essential for the protection of life, limb, or property. Removal of significant trees as defined in GHMC 17.99.590 may require replacement per GHMC 17.99.240(E).

A B. Plant Compatibility. All new plantings must be of a type which will thrive amid existing vegetation without killing or overtaking it. Incompatible plants which require different planting environments or microclimates shall not be mixed. Haphazard mixture of textures, colors and plant types should be avoided. Invasive, nuisance plants on the noxious weed list (state and Pierce County) are prohibited.

C B. Irrigation. Planting areas with nursery stock or transplanted vegetation shall include an automatic mechanical irrigation system designed for full coverage of the planting area. Exceptions may be granted for ~~xeriscape~~ native planting plans which require little or no supplemental irrigation that provide temporary irrigation for at least three growing seasons. ~~Xeriscape plans shall be prepared by a licensed landscape architect and shall be approved by the planning director.~~

DC. Wall Coverage. Blank walls shall include a narrow planting area, where feasible, with shrubs or vines (espaliers) giving coverage to the wall.

ED. Preservation of Significant Views. Views and vistas from public rights-of-way shall be considered when determining placement of vegetation. While it is not the intent to avoid all trees in the foreground of a view, consideration should be given to the expected height of tree and how they might be located to “frame” the view.

Section 6. Section 17.78.050 of the Gig Harbor Municipal Code is hereby repealed.

Section 7. A new section 17.78.050 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

**17.78.050 Preferred Species for Planting.**

The Director shall maintain a preferred species list of native plants for perimeter landscaping areas required by GHMC 17.78.060 and GHMC 17.78.070. The Director may update the list based upon the applicability, sustainability, and availability of plant species.

Section 8. Section 17.78.060 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.78.060 R-Perimeter landscaping requirements for residential landscaping development.**

A. Perimeter Areas.

4. Notwithstanding other regulations found in this chapter, perimeter areas shall be landscaped with trees, shrubs, and groundcover. The required width-area of the perimeter areas to be landscaped landscaping on residential site plans shall be at least the depth of the required yard or setback area. The required width for perimeter landscape areas in residential plats is 25 feet. The width of the perimeter landscape areas may be modified as provided for in this section in order to group, shape, or cluster existing or planted vegetation in modulated edges along the perimeter of a site or to create internal vegetation islands. In addition, internal vegetation island(s) and significant trees may be included in the calculation of perimeter areas in order to separate and or juxtapose elements of the site plan and layout. The total square footage of these modified perimeter landscape areas shall be equivalent to the area of the standard required perimeter width identified above.

A. Reductions to the standard perimeter landscape area width are limited as follows:

1. Perimeter landscape area widths may be reduced to not less than 1/3 of the required yard or setback area of the zone or 10 feet, whichever is greater;
2. Perimeter landscape areas which have been reduced in width shall not run the length of the existing exterior property line for more than 2/3 of the length of said property line;
3. Parking and driveways may not encroach into the remaining perimeter landscape areas. However, site access driveways and pedestrian walkways may cut through the remaining perimeter landscape area substantially perpendicular to the property line.

B. All areas used in the calculation of the perimeter landscape area shall be developed as follows:

1. All significant trees as defined in GHMC 17.99.590 shall be retained. These trees can be applied towards all or some of the trees required to be retained by GHMC



17.99.240(D). Retention of other existing vegetation for landscaping is strongly encouraged; however, it must be equal to or better than available nursery stock.

2. If the area does not contain substantial existing canopy, understory, and groundcover vegetation, it shall be enhanced or planted as follows:

a. At least eighty (80) percent of all trees, shrubs, and groundcover shall be from the preferred species list referenced in GHMC 17.78.050.

b. Perimeter landscaping may include existing landscaping, planted or a combination of both.

c. Areas to be landscaped shall be covered with live groundcover vegetation which will ultimately cover at least 75 percent of the ground area, within three years.

d. One deciduous tree a minimum of two-inch caliper or one six-foot evergreen tree shall be planted for every 200 square feet of area to be enhanced or planted. ~~or 1. Three shrubs which should will~~ attain a height of three and one-half feet within three years shall be provided for every ~~500~~ 200 square feet of the area to be landscaped-enhanced. The plantings shall be evenly distributed throughout in a natural planting pattern.

2. e. A minimum of 40 percent of the required trees plantings shall be evergreen trees a minimum of six feet in height at planting.

f. For properties located within the boundaries of the height overlay district referenced in Chapter 17.62 GHMC, trees shall be of a species that will ultimately grow to the height of the planned building with a mature height no taller than the approved building. ~~In the selection of trees and shrubs, consideration should be given to overall aesthetic impacts at maturity.~~

C. Zone transition buffers required by GHMC 17.99.180 and Enhancement Corridor landscaping required by GHMC 17.99.160 shall not be reduced or modified through this Chapter.

D. The perimeter landscape area in residential plats shall be located in recorded easements or recorded tracts.

E. The perimeter landscape area shall be appropriately documented on the approved land use plans, such as site plan, binding site plan or final plat.

B. Buffer Areas. All residential plats shall have a minimum 25-foot buffer consisting of a dense vegetated screen, shall be required along the perimeters of the plat, and the buffer shall be established as a covenant on the final plat. The screening may be achieved through any one or a combination of the following methods:

1. A solid row of evergreen trees or shrubs;

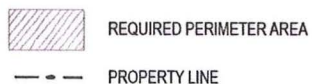
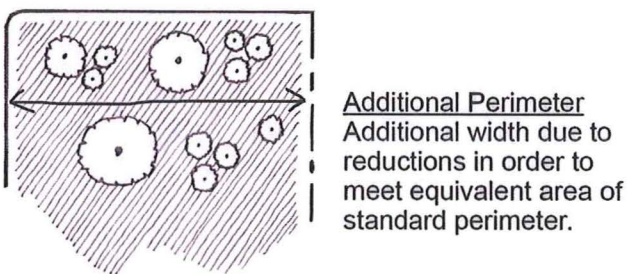
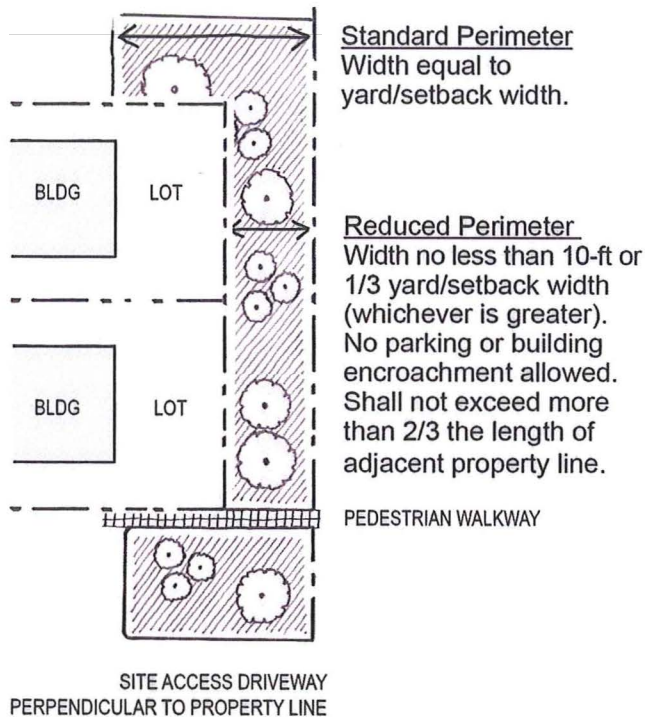
2. A solid row of evergreen trees and shrubs planted on an earthen berm;

3. A combination of trees or shrubs and fencing where the amount of fence does not exceed 50 percent of the lineal distance of the side to be buffered as well as other plant materials, planted so that the ground will be covered within three years;

4. Use of existing native vegetation which meets the definition of dense vegetative screen.

C. Parking Areas. Parking areas shall be landscaped subject to the standards for parking lots found in GHMC 17.78.080.

### RESIDENTIAL





Section 9. Section 17.78.070 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.78.070 R Perimeter landscaping requirements for nonresidential and mixed uses development.**

A. Perimeter Areas.4. Notwithstanding other regulations found in this chapter, perimeter areas shall be landscaped with trees, shrubs, and groundcover. The required width-area of perimeter areas to be landscaped landscaping shall be at least the depth of the required yard or setback area or total area equivalent to the required yards. Areas to be landscaped shall be covered with live plant materials which will ultimately cover 75 percent of the ground area within three years. One deciduous tree of a minimum of two-inch caliper or one six-foot high evergreen tree or three shrubs which will attain a height of three and one-half feet within three years shall be provided for every 300 square feet of area to be landscaped. The width of the perimeter landscape areas may be modified as provided for in this section in order to group, shape or cluster existing or planted vegetation to create modulating edges along the perimeter of a site or to create internal vegetation islands. In addition, internal vegetation island(s) may be included in the calculation of perimeter areas and shall be located in order to separate and or juxtapose buildings and/or parking areas and prioritize access points and junctions in internal circulation if the standards below are met. The total square footage of these modified perimeter landscape areas shall be equivalent to the area of the standard required perimeter width identified above.

1. Reductions to the standard perimeter landscape area width are limited as follows:

a. Perimeter landscape area widths may be reduced to not less than 1/3 of the required yard or setback area of the zone or 10 feet, whichever is greater;

b. Perimeter landscape areas which have been reduced in width shall not run the length of the existing exterior property lines for more than 2/3 of the said property line;

c. Parking and driveways may not encroach into the remaining perimeter landscape areas. However, site access driveways and pedestrian walkways may cut through the remaining perimeter landscape area substantially perpendicular to the property line.

2. All areas used in the calculation of the perimeter landscape area shall be developed as follows:

a. All significant trees as defined in GHMC 17.99.590 shall be retained. These trees can be applied towards all or some of the trees required to be retained by GHMC 17.99.240(D). Retention of other existing vegetation for landscaping is strongly encouraged; however, it must be equal to or better than available nursery stock.

b. If the area does not contain substantial existing canopy, understory, and groundcover vegetation, it shall be enhanced or planted as follows:

i. At least eighty (80) percent of all trees, shrubs, and groundcover shall be from the preferred species list referenced in GHMC 17.78.050.

ii. Perimeter landscaping may include existing landscaping, planted or a combination of both.

iii. Areas to be landscaped shall be covered with live groundcover vegetation which will ultimately cover at least 75 percent of the ground area within three years.

iv. One deciduous tree a minimum of two-inch caliper or one six-foot evergreen tree shall be planted for every 200 square feet of area to be enhanced or planted. ~~One~~ Three shrubs which will attain a height of three and one-half feet within

three years shall be provided for every 100 200 square feet of area to be enhanced. The plantings shall be evenly distributed throughout in a natural planting pattern.

v. A minimum of 40 percent of the required trees shall be evergreen trees a minimum of six feet in height at planting.

vi. For properties located within the boundaries of the height overlay district referenced in Chapter 17.62 GHMC, trees shall be of a species with a mature height no taller than the approved building.

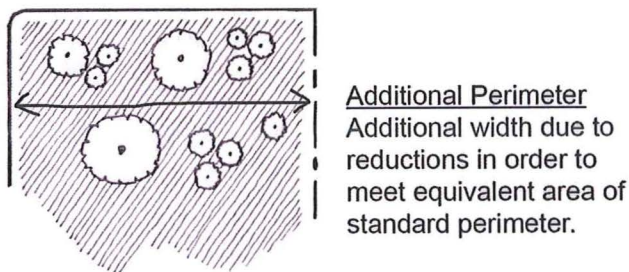
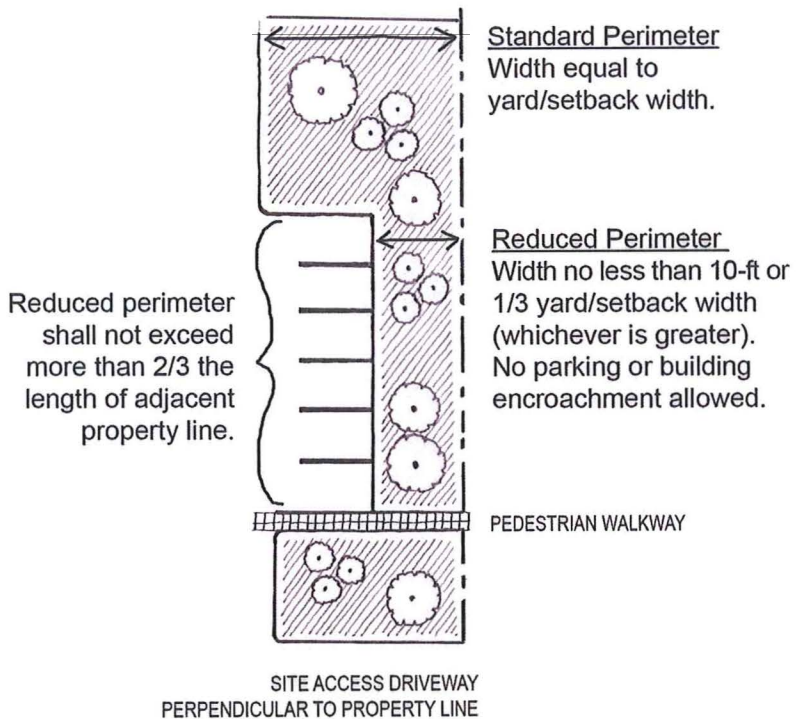
3. Zone transition buffers required by GHMC 17.99.180 and Enhancement Corridor landscaping required by GHMC 17.99.160 shall not be reduced or modified through this Chapter.



4. All areas used in the calculation of the perimeter landscape area shall be appropriately documented on the approved land use plans, such as site plan, binding site plan or recorded final plat.

2. A minimum of 40 percent of the required plantings shall be evergreen trees a minimum of six feet in height. For properties located within the boundaries of the height overlay district referenced in Chapter 17.62 GHMC, trees shall be of a species that will ultimately grow to the height of the planned building.



### NON-RESIDENTIAL



 REQUIRED PERIMETER AREA  
 PROPERTY LINE

~~B. Buffer Areas~~Residential Buffering. Where a development subject to these standards is contiguous to a residential zoning district, the zone transition standards of GHMC 17.99.180 shall be met. Where a nonresidential development abuts a residential development in the same zone, then that required perimeter area shall be landscaped the full width of the setback areas as follows:

1. A solid screen of evergreen trees or shrubs;
2. A solid screen of evergreen trees and shrubs planted on an earthen berm an average of three feet high along its midline;
3. A combination of trees or shrubs and fencing where the amount of fence does not exceed 50 percent of the lineal distance of the side to be buffered as well as other plant materials, planted so that the ground will be covered within three years.

~~C. Areas Without Setbacks~~.

1. In those areas where there is no required front yard setback or where buildings are built to the property line, development subject to this chapter shall provide street trees at an interval of one every 20 feet or planter boxes at the same interval or some combination of trees and boxes, or an alternative.

2. Street trees shall be a minimum caliper of two inches and be a species approved by the city and installed to city standards. Planter boxes shall be maintained by the property owners and shall be of a type approved by the city.

~~D. Parking Area~~. ~~Parking areas shall be landscaped subject to the standards for parking lots found in GHMC 17.78.080.~~

Section 10. Section 17.78.090 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.78.090 Screening/buffering from SR-16, Tacoma Power Cushman transmission line property and SR-16 interchanges.**

A. All development of properties adjacent to SR-16, the Tacoma Power Cushman transmission line property, and SR-16 interchange ramps shall be required to leave a buffer between the property line and any development. This buffer shall be a minimum of 30 feet in depth and shall only apply when the property is also within the enhancement corridor. The buffer shall conform to all enhancement corridor standards defined in GHMC 17.99.160.

~~B. Adjacent to SR-16 interchange ramps landscape buffering shall be done according to the standards for perimeter landscaping for residential and nonresidential development. The buffer area shall be covered with live plant materials which will ultimately cover 75 percent of the ground cover within three years. One deciduous tree of a minimum of two-inch caliper or one six-foot evergreen or three shrubs which will attain a height of three and one-half feet within three years shall be provided for every 500 square feet of the area to be landscaped. Forty percent of the required planting shall be evergreen trees a minimum of six feet in height and of a species that will grow to the height of the buildings in the development. All significant vegetation as defined in GHMC 17.99.590 shall be retained.~~

~~C~~. Parking lots designed for more than 16 cars shall either be completely screened from SR-16 or be partially screened under the provisions of the enhancement corridor standards in GHMC 17.99.160.

Section 11. A new section 17.78.092 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

**17.78.092 Protection of significant trees and existing native vegetation.**



A. Areas of native vegetation which are designated as landscape or buffer areas, or which are otherwise retained under the provisions of Chapter 17.99 GHMC, shall be subject to a 10-foot-wide no-construction zone and shall be protected by a barricade as defined in subsection D of this section. Clearing, grading or contour alteration is not permitted within this no-construction area unless an ISA qualified arborist provides written documentation that proposed construction activity within the 10-foot setback will not harm existing vegetation within the designated landscape or buffer area.

B. Encroachment into Drip Line. No construction activities shall take place within the drip line of a tree to be retained without extra precautions as recommended by an ISA certified arborist. The applicant may install impervious or compactible surface within the area defined by the drip line if it is demonstrated by an ISA qualified arborist that such activities will not endanger the tree or trees. (See the definition of "drip line" in GHMC 17.99.590.)

C. Grading. If the grade level adjoining a tree to be retained is to be altered to a degree that would endanger the viability of a tree or trees, then the applicant shall construct a dry rock wall or rock well around the tree. The diameter of this wall or well must be capable of protecting the tree beyond a no construction zone or as approved by an ISA certified arborist.

D. Tree Protection Barricade. All significant trees to be retained must be protected during construction by installation of a protective barricade. This will require preliminary identification of the proposed area of disturbance for staff inspection and approval, then installation of a protective barricade before major excavation with heavy equipment begins. The barricade must be made of cylindrical steel posts or four-inch by four-inch wood posts with chain link fence attached. Fence posts shall be eight feet on center connected with two-inch by four-inch top rails or equivalent support system. Fence height must be a minimum of four feet high.

Section 12. Section 17.78.120 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.78.120 Maintenance.**

A. Whenever landscaping is required under the provisions of this chapter, shrubs and trees in the landscaping and planting areas shall be maintained in a healthy growing condition. Planting beds shall not be located over impervious surfaces. Dead or dying trees or shrubs shall be replaced immediately, and the planting area shall be maintained reasonably free of noxious weeds and trash.

B. Similarly, if necessary, the trees or shrubs shall receive pruning or removal to avoid the creation of a safety hazard or nuisance through excessive shading, overhanging adjacent properties or to preserve a view or scenic vista, subject to the provisions of GHMC 17.99.240.

C. Areas of natural vegetation shall be retained over time to maintain the health and fullness of natural vegetation and buffer areas as allowed in GHMC 17.99.240(G).

Section 13. Section 17.98.040 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.98.040 Design review application requirements.**

A complete design review application shall contain the following information:

A. Site Layout. A plan, drawn to scale no smaller than one inch equals 30 feet showing location and size of all structures, critical areas, required buffer areas, required yards, landscape areas, open spaces, common areas or plazas, walkways, retaining

wall locations, storm water retention facilities, and parking and vehicle maneuvering areas.

B. ~~Significant Vegetation Plan Tree Survey~~. A significant ~~vegetation plan tree survey~~ which accurately identifies the species, size and location of all significant ~~vegetation trees~~ within the property subject to the application.

C. ~~Tree Retention Plan Survey~~. A ~~landscape plan survey~~ showing the species, size and location of all significant ~~natural vegetation trees~~ to be retained on the property.

D. Preliminary Site Section Drawings. Section drawings which illustrate existing and proposed grades.

E. Preliminary Grading Plan. A topographic map of the property, delineating contours, existing and proposed, at no greater than five-foot intervals. The plan shall indicate all proposed cuts, fills and retaining wall heights and include areas of disturbance necessary to construct all retaining walls, structures and impervious surfaces.

F. Preliminary Utilities Plan. A utilities plan showing the location and type of any utilities proposed in critical areas, critical area buffers and natural vegetation retention areas.

G. Paving Materials. A description of proposed pedestrian and vehicular paving materials; include proposed type (asphalt, concrete, pavers, etc.), color, scoring and texture.

H. Elevation Drawings. Complete elevation drawings of all buildings showing dimensions and proposed materials including roofing, siding, windows and trim. Drawings shall include conceptual trim and cornice design, roof pitch, and solid/void ratio and siding material calculations. If landscaping is proposed to soften or mitigate architectural modulation or details, additional elevation drawings showing proposed landscaping shall be provided.

I. Sign Plan. A sign plan showing the general location, type and size of signage on buildings.

J. Equipment Screening. A description of how all mechanical and utility equipment will be screened.

K. Color and Material Palette. A schematic color and material palette of the building's exterior siding, trim, cornice, windows and roofing. If alternative design review is requested, material and color samples shall be provided.

L. Fencing. The location and description of any proposed fencing.

M. Light Fixtures. A cutsheet showing typical parking and building lighting which includes pole height and mounting height. If proposed fixtures are near critical areas or natural vegetation retention areas, shielding shall be shown.

N. Accessories. The location of all outdoor furniture, trash receptacles and accessories.

O. Alternative Design Review. A request for alternative design review shall include a written statement addressing the criteria for approval as set forth in GHMC 17.98.055, 17.98.056, 17.98.058 or 17.98.060, as applicable.

Section 14. Section 17.99.240 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.99.240 Natural site conditions.**

Site development should be designed to reflect the natural conditions of the site, including topography and existing vegetation. The following standards will help to achieve this, and are applicable to all development.



**A. Limit clearing of vacant parcels to no more than 50 percent of significant vegetation trees and retain vegetation in all required buffers and setbacks.**

Clearing limitations apply to all vacant parcels with no approved site plan or building permit for development.

**B. Retain natural vegetation on underdeveloped portions of sites with approved site plan.**

Clearing of underdeveloped portions of approved site plans shall only be permitted once civil plans for development of those areas have been approved and clearing is required for civil infrastructure.

**C. Maintain natural topography.**

Buildings and parking lots shall be designed to fit natural slopes rather than regrading the slope to fit a particular building or parking lot design. Cuts and fills on a site shall be balanced and finished grades shall not include any retaining walls that exceed six feet. Instead, designs shall complement and take advantage of natural topography. Sloped lots may require multileveled buildings, terraced parking lots and/or lower level parking garages.

**[Note: Retain graphic at this location]**

**D. Incorporate approximately 20 25 percent of significant vegetation trees into site plan the project.**

On nonresidential, ~~and~~ multifamily sites and residential subdivisions, at least 20 25 percent of ~~natural-significant trees~~ vegetation shall be incorporated into required landscaping and retained indefinitely. The 20-25 percent calculation shall be based upon significant ~~trees~~ vegetation currently on the site and which has been cleared from the site within the past five years. All significant trees on site shall be identified and shown on a tree survey. In conjunction with the 20 25 percent retention requirement, the following options may be applied to other landscaping requirements of this chapter.

**1. REDUCED LANDSCAPING REQUIREMENTS**

Clusters of natural vegetation which form a continuous canopy at least 15 feet deep (average) and at least 20 25 percent of the parcel size (measured from the outer edges of the trunks) will meet the requirements for on-site trees; provided, that screening and buffering requirements otherwise required are met. All other landscaping requirements must be adhered to.

**[Note: Retain graphic at this location]**

**2. REDUCED PARKING STALL DIMENSIONS**

Parking stalls adjacent to protected trees may be reduced to eight feet by 16 feet to avoid encroachment into tree root zones.

**3. ENCROACHMENT INTO SETBACKS**

Structures and parking areas may encroach into required setbacks if it can be shown that such encroachment allows significant trees or tree clusters to be retained. Encroachment shall be the minimum encroachment necessary to protect specified trees. In no case shall the yard be reduced to less than five feet. (Not applicable to single-family and duplex development or to development subject to zone transition standards.)

**[Note: Retain graphic at this location]**

**E. Replace lost trees which were intended to be retained.**

Any tree proposed or required to be retained and which is subsequently lost or destroyed must be replaced with at least three six-foot trees or one 18-foot tree or one 12-foot plus one six-foot tree of the same species.

If trees required to be retained pursuant to this title or a land use approval are subsequently removed or damaged, they shall be replaced by at least one and one half times the tree diameter removed (ex. A 10" DBH tree removed will equal 15" DBH of tree diameter replaced.) A single tree may be replaced with multiple trees provided the total tree diameter at DBH equals the required replacement value. Replacement trees shall be a minimum of six-foot trees for evergreens or 2 inch caliper for deciduous trees at planting. The trees removed shall be replaced with trees of the same type, evergreen or deciduous. Shrubs and ground cover shall also be replaced when replacing tree(s). The shrubs and ground cover shall be planted within the limits of the previous tree stand canopy.

**F. Retain the natural symmetry of trees.**

Trimming of trees shall be done in a manner that preserves the tree's natural symmetry. Topping is prohibited unless recommended by an ISA certified arborist for health or safety reasons. Limbing-up may be appropriate if sufficient crown is retained to preserve the tree's fullness and health.

**G. Maintain health and fullness of natural vegetation and buffer areas.**

Areas of natural vegetation shall be retained over time. To ensure this, volunteer saplings of coniferous trees should be allowed to grow to replace older, less healthy trees. However, it may be prudent to thin out some saplings to avoid overcrowding if existing trees are healthy and full. A healthy and typical spacing of larger trees in a natural or forested setting is about 12 to 15 feet on center.

Section 15. The definition of Significant Vegetation in Section 17.99.590 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**Significant Trees Vegetation** A Healthy trees having a trunk diameter of at least six inches as measured 54 inches above grade. A tree growing with multiple stems shall be considered significant if at least one of the stems, measured at a point six inches from the point where the stems digress from the main trunk, is at least four inches in diameter. Alders (Alnus rubra), Cottonwood (Populus algeiros), and trees in the Poplar species shall not be considered a significant tree. A dead tree or a tree that has been identified by an ISA certified arborist as substantially diseased or damaged shall not be considered a significant tree.

Section 16. Subsection 17.89.040(A) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.89.040 Contents of complete PRD application.**

A. Preliminary PRD. In addition to the applicable requirements of GHMC 19.02.002, a complete application for preliminary PRD shall consist of the following information:

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



2. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;

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

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

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

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

7. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site and the proposed size and location of driveways, streets and roads that have immediate impact on public rights-of-way;

8. Utility, drainage and stormwater runoff plans;

9. A plan of all proposed landscaping including buffers and screening to be used as well as identification of areas of significant ~~vegetation~~ trees proposed to be retained;

10. A statement explaining how the proposed PRD is consistent with and implements the city of Gig Harbor comprehensive plan, the designation under the comprehensive plan, current zone classification, and desired zone classification;

11. A narrative describing how the proposed PRD provides substantial additional benefit to the citizens of the city of Gig Harbor (the benefit accruing as a result of implementation of the PRD process as opposed to following the development standards of the underlying zone) and how it is proposed the additional amenities and benefits should apply to the percentage of additional density and/or height being requested;

12. A map of the area, with area proposed for rezone outlined in red; and

13. A complete application for design review as required under GHMC

17.98.040.

\* \* \*

Section 17. Subsection 17.90.040(A) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.90.040 Contents of complete PUD application.**

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

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

2. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;

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

4. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site, as well as adjacent parcels and uses;
  5. A topographic map delineating contours, existing and proposed, at two-foot intervals and which locates and classifies existing streams, wetlands, steep slopes and other natural features and/or critical areas;
  6. Plans drawn to a scale no smaller than one inch equals 30 feet showing the proposed general location and size of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas;
  7. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site and the proposed size and location of driveways, streets and roads that have immediate impact on public rights-of-way;
  8. Utility, drainage and stormwater runoff plans;
  9. A plan of all proposed landscaping including buffers and screening to be used as well as identification of areas of significant vegetation trees proposed to be retained;
  10. A statement explaining how the proposed plan is consistent with and implements the city of Gig Harbor comprehensive plan, the designation under the comprehensive plan, current zone classification, and desired zone classification;
  11. A narrative describing how the proposal provides substantial additional benefit to the citizens of the city of Gig Harbor (the benefit accruing as a result of implementation of the PUD process as opposed to following the development standards of the underlying zone), and how it is proposed the additional amenities and benefits should apply to the percentage of additional density or gross floor area, or additional height being requested;
  12. A complete application for design review as required by GHMC 17.98.040;
- and
13. A map of the area, with the area proposed for any rezone outlined in red.

\* \* \*

Section 18. Article III of Section 17.99.020 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**Article III. SITE DESIGN.**

This article addresses how projects relate to their own site. It requires that design consideration be given to topography, building location, walkways, parking, landscaping, open space and common areas. It encourages pedestrian access, outdoor activities, and preservation of significant vegetation trees and existing views.

Section 19. Subsections 17.99.160(A, B, and C) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.99.160 Enhancement corridor standards.**

All development within enhancement corridors must conform to the following design criteria:

**A. Retain significant vegetation.**

Significant vegetation-trees within 30 feet of the property line abutting the street rights-of-way or City of Tacoma Cushman transmission line properties within the enhancement corridor shall be retained.

**B. Provide full screening or partial screening with glimpse-through areas.**



Parking lots and structures in any area of the defined enhancement corridor must be fully screened from SR 16, except they may be viewed through a semi-transparent screen of on-site trees as follows:

1. Neither full or semi-transparent screening is required on parcels designated as prominent parcels on the city's visually sensitive areas map, except that significant ~~vegetation~~ trees within 30 feet of the property line abutting the street rights-of-way or City of Tacoma Cushman transmission line properties within the enhancement corridor shall be retained.
2. Semi-transparent screens must provide at least 70 percent year-round foliage coverage distributed evenly across the view along the SR 16 right-of-way and City of Tacoma Cushman transmission line properties and 50 percent coverage along the Canterwood Blvd/Burnham Drive/Harborview Drive rights-of-way. Semi-transparent screens may consist of new vegetation only if healthy existing vegetation is not adequate to fulfill this requirement.

**[Note: Retain graphic at this location]**

3. A semi-transparent screen shall not be a rigid line of trees along the property's edge. Rows of trees existing along property edges shall be retained. Additional trees are required so that a staggered, natural growth pattern is retained or achieved.

**C. Maintain 30-foot setbacks from the rights-of-way and City of Tacoma Cushman transmission line properties that define enhancement corridors.**

Parcels abutting defined enhancement corridor rights-of-way and City of Tacoma Cushman transmission line properties must maintain a 30-foot setback within which no structures or parking lots shall be allowed. Existing significant ~~vegetation~~ trees within the setback shall be retained.

\* \* \*

Section 20. Subsection 17.99.220(D) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.99.220 Prominent parcel standards.**

All development of prominent parcels shall conform to all applicable development standards of this title and to the following additional standards:

\* \* \*

**D. Keep structures in the foreground.**

To provide further emphasis to design, buildings shall be located at the front setback line unless significant ~~vegetation~~ trees warrants placing the building further back.

\* \* \*

Section 21. Subsection 17.99.300(B) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.99.300 Nonresidential setbacks.**

The following standards apply to all nonresidential development. In order to deviate from minimum setback standards, approval must be obtained through the variance process defined in Chapter 17.66 GHMC and not through the design review process.

\* \* \*

**B. Locate structures near front setback line (IBE).**

At least 50 percent of the primary structure's front facade shall be placed on the front setback line (except in the historic district or unless retention of significant ~~vegetation~~ tree(s) warrants an increased setback). Additional structures on the site shall be likewise placed on the front setback line unless they are located behind other structures on the site. The remaining portion of the building may be stepped back to accommodate common areas or parking. However, no more than 50 percent of required parking may be located forward of the front facade of a building (see parking standards in GHMC 17.99.330(E)).

\* \* \*

Section 22. Subsection 17.99.390(A) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

**17.99.390 Hierarchy in building design.**

The following standards apply to all nonresidential sites with more than one building or with one or more multitenant buildings, and on all prominent parcels identified on the city's visually sensitive areas map (see Appendix A of this chapter).

**A. Design primary structures as a focal point (IBE).**

Primary structures shall be designed to serve as a visual draw to a site. Primary structures shall be designed as follows:

**1. Must be prominently visible to the public.**

Primary structures shall be the focal point of development and must be prominently visible to the public right-of-way giving access to the project, unless significant ~~vegetation~~ tree(s) warrants a less visible structure, or unless visibility is otherwise prohibited (e.g., enhancement corridors).

**2. Must have the appearance of at least two levels.**

To provide a more stately appearance, primary structures shall have at least two floors (minimum eight feet apart). The second floor level shall be at least one-third the area of the lower floor area. Alternatively, primary structures may be single-floor buildings with roofs having a minimum pitch of 8/12, and which contain dormer windows on every roof plane having a ridge length of 40 feet or more. One dormer window with a glazing area of at least 15 square feet shall be required for every 40 feet of ridge length (or portion thereof). Dormer windows shall be functional, providing natural light into the finished and heated area of the building.

**3. May have limited increased height.**

Primary structures may include an area not to exceed 10 percent of the building's footprint that rises above the underlying height limit; provided, that the parcel is not located in the height restriction area defined in Chapter 17.62 GHMC. The height



increase must be in building volume rather than as an extension of a parapet. This height increase shall not exceed eight feet, and shall not be applied to building heights otherwise restricted under zone transition standards in GHMC 17.99.170.

**4. Must provide a prominent entrance.**

Primary structures shall include a prominent entrance which faces or is clearly visible from the street. The entrance shall be defined by a projecting or recessed portico or a clearly defined doorway designed as a focal point in the facade design.

\* \* \*

Section 23. 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 24. 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 \_\_\_\_\_, 2014.

CITY OF GIG HARBOR

\_\_\_\_\_  
Mayor Jill Guernsey

ATTEST/AUTHENTICATED:

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

APPROVED AS TO FORM:  
Office of the City Attorney

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



DEVELOPMENT SERVICES

**NOTICE OF RECOMMENDATION  
CITY OF GIG HARBOR PLANNING COMMISSION**

**TO:** Mayor Guernsey and Members of the Council  
**FROM:** Harris Atkins, Chair, Planning Commission  
**RE:** Trees, Landscaping and Vegetation Amendments

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**Application:**

This application was initiated by the City of Gig Harbor after the City's Design Review Board identified an issue with vegetation retention and development requirements conflict, creating a 'scoop out' effect in large developments. The City Council specifically directed the Planning Commission to review and identify codes that inhibit the preservation and enhancement of the City of Gig Harbor's natural environment.

**Planning Commission Review:**

The Planning Commission held eleven work study sessions between November 2013 and May 2014, and discussed the item at the February 3, 2014 joint City Council and Planning Commission study session.

Upon review of existing codes and built conditions, the Planning Commission proposed allowing future long plats (5 or more lots), multifamily, mixed use and commercial site development to have a second option to lineal buffers, in preservation of perimeter buffer trees and vegetation. This allows modulated buffers along 2/3 of the length of the site, with no more than 2/3 of the required buffer area being modulated. The same area in square footage is required to be retained in both options. Their recommendation includes the development of a graphic to be included in the Draft Ordinance to visualize this option.

In addition to modulated buffers, the Planning Commission proposes amendments to the retention requirements and definition of significant trees, increasing retention requirements by five percent (5%) and removing Alders, Cottonwoods, and Poplars, and dead trees identified by an ISA arborist from the definition of significant trees. The Commission also recommends establishing a new tree replacement ratio based upon the diameter of trees illegally or improperly removed, this change requires a 1:1.5 replacement based upon the diameter, (Example, a 10" diameter tree required to be retained is removed, the proposed language would require that a total of 15" of diameter of the same type of trees (coniferous or deciduous) be planted in the area of the tree removed).



A public hearing on the proposed amendments were held on March 6, 2014. Upon consideration of the comments received, the Planning Commission held additional work study sessions after the public hearing to review comments and on May 29, 2014 recommended **APPROVAL** of the amendments contained at the end of this notice.

**Findings of Fact:**

The Planning Commission makes the following findings of fact in relation to their recommendation of approval (**Note: The following goal and policy numbers are subject to change upon adoption of The Harbor Element to the City's Comprehensive Plan**):

1. The City's Comprehensive Plan includes the following goals and policies which support the amendments:

**GOAL 2.2: DEFINE IDENTITY AND CREATE COMMUNITY BASED URBAN FORM.**

*Define a pattern of urban development which is recognizable, provides an identity and reflects local values and opportunities.*

**GOAL 2.5: PROTECT AND ENHANCE SURFACE WATER QUALITY AND MANAGE FLOWS TO PRESERVE ENVIRONMENTAL RESOURCES.**

**2.5.1. Adequate Provisions for Storm and Surface Water Management**

*Maintain and implement the City's Stormwater Comprehensive Plan to ensure consistency with State and federal clean water guidelines, to preserve and enhance existing surface water resources, to eliminate localized flooding, and to protect the health of Puget Sound.*

**2.5.2. Support Low Impact Development methods to manage stormwater runoff on-site.**

*Establish a review process and toolkit of Low Impact Development (LID) techniques for use in public and private development to reduce or eliminate conveyance of stormwater runoff from development sites. Allow and encourage alternative site and public facility design and surface water management approaches that implement the intent of Low Impact Development.*

**GOAL 2.6: OPEN SPACE/PRESERVATION AREAS**

*Define and designate natural features which have inherent development constraints or unique environmental characteristics as areas suitable for open space or preservation areas and provide special incentives or programs to preserve these areas in their natural state.*

**2.6.2. Incentives and Performance**

*a) Provide bonus densities to property owners that them to include the preservation area as part of the density-bonus calculation.*

*b) Provide a variety of site development options which preserve open space but which allow the property owner maximum flexibility in site design and construction.*

**GOAL 2.8: PROVIDE LAND USE SITE DEVELOPMENT FLEXIBILITY.**

**GOAL 3.10: MAINTAIN AND INCORPORATE GIG HARBOR'S NATURAL CONDITIONS IN NEW RESIDENTIAL DEVELOPMENTS.**

**3.10.1. Incorporate existing vegetation into new residential developments.**  
*Roads, lot layout and building sites in new residential developments should be designed to preserve high quality existing vegetation by clustering open space and native trees in order to protect not only the trees, but the micro-climates which support them.*

**3.10.2. Preserve existing trees on single-family lots in lower-density residential developments.** *High quality native trees and understory should be retained where feasible.*

**3.10.3. Incorporate new native vegetation plantings in higher-density residential developments.**  
*Ensure that the size of buffers and clustered open space are consistent with the scale of the development, especially where new higher-density developments are adjacent to existing lower density developments.*

**3.10.4. Encourage property owners to preserve native forest communities and tree canopies.**

**3.10.5. Include landscape buffers between new residential development and perimeter roads.**  
*Native nursery-stock and existing vegetation should be used to buffer residential development from perimeter roads. Buffers should be wide enough to effectively retain existing or support replanting of native vegetation. The use of berms and swales along with landscaping can also adequately buffer residential developments from perimeter roads.*

**3.10.6. Maximize opportunities for creating usable, attractive, well-integrated open space in new residential developments.**  
*Well organized outdoor open spaces can be created by the grouping and orientation of building sites. These open spaces provide buffering, preservation of natural areas and recreation opportunities. Open space which is integrated into residential projects can also provide for important hydrologic functions.*

**GOAL 3.21: PRESERVE THE NATURAL AMBIANCE OF THE HARBOR AREA.**

**3.21.1. Incorporate existing vegetation into site plan.**  
*As much as possible, site plans should be designed to protect existing vegetation. Such efforts should include the following:*  
*(a) Cluster open space in order to protect not only trees, but the micro-climates which protect them. To be effective, a single cluster should be no less than 25% of the site area.*  
*(b) Identify areas of disturbance prior to site plan approval. Too many good intentions turn sour because of incorrect assumptions on the location of proposed development in relation to property lines and existing tree stands. This can be*



avoided by surveying the property and locating areas proposed for clearing before a site plan or subdivision is approved.

(c) Install protective barricades prior to clearing and grading. Even the best intentions by the land developer to preserve natural vegetation can be undermined by careless equipment operators who might indiscriminately clear an area intended to be preserved.

(d) Increase restrictions on vegetation removal after construction.

**GOAL 4.1: RESPECT THE NATURAL ENVIRONMENT**

Maintain a harmonious relationship between the natural environment and proposed future urban development. Develop, implement and enforce exacting performance standards governing possible developments within land or soil areas which are subject to moderate and severe hazards.

2. The Planning Commission finds that the proposed amendments allow certain aspects of site development to weave into the vegetative setting and encourages the preservation and clustering of mature stands of existing trees and vegetation.
3. The Planning Commission finds that the proposed amendments provide additional aesthetic values allowing greater flexibility and options in site design and allocation of retained vegetation in order to respect the natural topography and existing natural environment.
4. The Planning Commission finds that these amendments provide environmental benefits, creating natural meanders and vegetation islands allowing for greater water infiltration points, improving noise reduction and clean air, as well as increased habitat and biodiversity.
5. The Planning Commission finds these amendments should be limited to future residential plats of five lots or more and future site plan developments for nonresidential, multifamily and mixed use, as those contain the highest intensity uses and are larger in total size.
6. The Planning Commission finds that the proposed amendments to the definition of Significant Trees preserves highly valued coniferous trees while allowing removal of faster growing species.
7. The Planning Commission finds that increasing the replacement requirements for trees intended to be retained will create greater enhancement of areas meant for retention that were disturbed.
8. The Planning Commission finds that the proposed amendments are consistent with the Comprehensive Plan.

Harris Atkins, Chair  
Planning Commission



Date 6/26/2014

**Proposed Amendments to Chapter 17.78 TREES, LANDSCAPING AND SCREENING**

**1. Section 17.78.010 is amended to read:**

**17.78.010 Intent.**

The intent of this chapter is to encourage the preservation and enhancement of the City of Gig Harbor's natural environment. It is also the intent of this chapter to establish standards for landscaping and to allow modulated landscape buffers and internal landscape islands and screening, in order to maintain or replace existing vegetation, provide physical and visual buffers between differing land uses, and lessen environmental and improve aesthetic impacts of development and to enhance the overall appearance of the city. It is also the intent to avoid untimely and haphazard removal or destruction of significant trees and vegetation while preserving important landscape characteristics. Notwithstanding any other provision of this chapter, trees and shrubs planted pursuant to the provisions of this chapter shall be types and ultimate sizes at maturity that will not impair scenic vistas.

**2. Section 17.78.020 is amended to read:**

**17.78.020 Applicability.**

The standards as required by this chapter shall apply to all uses of land which are subject to site plan review, a land clearing permit, and to any new subdivision plat. GHMC 17.78.095 applies to all development in the area described by that section. Additionally, the requirements of Shoreline Master Program subsection 6.2.4, Regulations – Vegetation Conservation Strip, shall apply to all property within the jurisdiction of the city's shoreline master program.

**3. Section 17.78.030 is amended to read:**

**17.78.030 Tree, Landscape and Screening Plans.**

A. A plan of the proposed landscaping and screening shall be incorporated into plans submitted for site plan review or projects which require hearing examiner review. The plans shall be drawn to scale and contain the following, in addition to the significant vegetation plan tree survey and tree retention plan survey required by GHMC 17.98.040:

1A. Parking and vehicle use areas, driveways and walkways;

2B. Buildings or structures, existing and proposed;

3C. All proposed new landscaping. Landscape plan shall include the location, species, diameter or size of materials plants using both botanical and common names. Drawings shall reflect the ultimate size of plant materials. Alternatively, a schematic landscape plan can be submitted showing planting zones. Each planting zone shall include typical shrub and groundcover species and typical size and spacing at planting. All landscape plans shall include the location, species, and diameter or size of all proposed trees;

4D. Schematic irrigation plan showing irrigation zones and proposed irrigation techniques within each zone or a xeriscape plan as set forth in GHMC 17.78.045(B)(C);

5E. Identification of tree protection techniques.

B. Final landscape construction plans consistent with the landscape plans approved through the land use permit process shall be submitted with civil or building permits application.

**4. Section 17.78.045 is amended to read:**

**17.78.045 General provisions.**

A. Removal of a dead, substantially diseased or damaged, or hazard tree is allowed upon submittal of written verification by an ISA certified arborist who states that removal of the trees is essential for the protection of life, limb, or property. Removal of significant trees as defined in GHMC 17.99.590 may require replacement per GHMC 17.99.240(E).

A.B. Plant Compatibility. All new plantings must be of a type which will thrive amid existing vegetation without killing or overtaking it. Incompatible plants which require different planting environments or microclimates shall not be mixed. Haphazard mixture of textures, colors and plant types should be avoided. Invasive, nuisance plants on the noxious weed list (state and Pierce County) are prohibited.

C.B. Irrigation. Planting areas with nursery stock or transplanted vegetation shall include an automatic mechanical irrigation system designed for full coverage of the planting area. Exceptions may be granted for xeriscape native planting plans which require little or no supplemental irrigation that provide temporary irrigation for at least three growing seasons. Xeriscape plans shall be prepared by a licensed landscape architect and shall be approved by the planning director.



DC. Wall Coverage. Blank walls shall include a narrow planting area, where feasible, with shrubs or vines (espaliers) giving coverage to the wall.

ED. Preservation of Significant Views. Views and vistas from public rights-of-way shall be considered when determining placement of vegetation. While it is not the intent to avoid all trees in the foreground of a view, consideration should be given to the expected height of tree and how they might be located to "frame" the view.

**5. Section 17.78.050 is repealed.**

The majority of this section has been relocated into a new Section 17.78.092

**6. A new Section 17.78.050 is added:**

**17.78.050 Preferred Species for Planting.**

The Director shall maintain a preferred species list of native plants for perimeter landscaping areas required by GHMC 17.78.060 and GHMC 17.78.070. The Director may update the list based upon the applicability, sustainability, and availability of plant species.

**7. Section 17.78.060 is amended to read:**

**17.78.060 R-Perimeter landscaping requirements for residential landscaping development.**

**A. Perimeter Areas.**

4. Notwithstanding other regulations found in this chapter, perimeter areas shall be landscaped with trees, shrubs, and groundcover. The required width-area of the perimeter areas to be landscaped landscaping on residential site plans shall be at least the depth of the required yard or setback area. The required width for perimeter landscape areas in residential plats is 25 feet. The width of the perimeter landscape areas may be modified as provided for in this section in order to group, shape, or cluster existing or planted vegetation in modulated edges along the perimeter of a site or to create internal vegetation islands. In addition, internal vegetation island(s) and significant trees may be included in the calculation of perimeter areas in order to separate and or juxtapose elements of the site plan and layout. The total square footage of these modified perimeter landscape areas shall be equivalent to the area of the standard required perimeter width identified above.

**A. Reductions to the standard perimeter landscape area width are limited as follows:**

1. Perimeter landscape area widths may be reduced to not less than 1/3 of the required yard or setback area of the zone or 10 feet, whichever is greater;

2. Perimeter landscape areas which have been reduced in width shall not run the length of the existing exterior property line for more than 2/3 of the length of said property line;

3. Parking and driveways may not encroach into the remaining perimeter landscape areas. However, site access driveways and pedestrian walkways may cut through the remaining perimeter landscape area substantially perpendicular to the property line.

**B. All areas used in the calculation of the perimeter landscape area shall be developed as follows:**

1. All significant trees as defined in GHMC 17.99.590 shall be retained. These trees can be applied towards all or some of the trees required to be retained by GHMC 17.99.240(D). Retention of other existing vegetation for landscaping is strongly encouraged; however, it must be equal to or better than available nursery stock.

2. If the area does not contain substantial existing canopy, understory, and groundcover vegetation, it shall be enhanced or planted as follows:

a. At least eighty (80) percent of all trees, shrubs and groundcover shall be from the preferred species list referenced in GHMC 17.78.050.

b. Perimeter landscaping may include existing landscaping, planted or a combination of both.

c. Areas to be landscaped shall be covered with live groundcover vegetation which will ultimately cover at least 75 percent of the ground area, within three years.

d. One deciduous tree a minimum of two-inch caliper or one six-foot evergreen tree shall be planted for every 200 square feet of area to be enhanced or planted, or ~~1~~ Three shrubs which should will attain a height of three and one-half feet within three years shall be provided for every ~~500~~ 200 square feet of the area to be landscaped-enhanced. The plantings shall be evenly distributed throughout in a natural planting pattern.

~~2. e. A minimum of 40 percent of the required trees plantings shall be evergreen trees a minimum of six feet in height at planting.~~

~~f. For properties located within the boundaries of the height overlay district referenced in Chapter 17.62 GHMC, trees shall be of a species that will ultimately grow to the height of the planned building with a mature height no taller than the approved building. In the selection of trees and shrubs, consideration should be given to overall aesthetic impacts at maturity.~~

~~C. Zone transition buffers required by GHMC 17.99.180 and Enhancement Corridor landscaping required by GHMC 17.99.160 shall not be reduced or modified through this Chapter.~~

~~D. The perimeter landscape area in residential plats shall be located in recorded easements or recorded tracts.~~

~~E. The perimeter landscape area shall be appropriately documented on the approved land use plans, such as site plan, binding site plan or final plat.~~

~~B. Buffer Areas. All residential plats shall have a minimum 25-foot buffer consisting of a dense vegetated screen, shall be required along the perimeters of the plat, and the buffer shall be established as a covenant on the final plat. The screening may be achieved through any one or a combination of the following methods:~~

- ~~1. A solid row of evergreen trees or shrubs;~~
- ~~2. A solid row of evergreen trees and shrubs planted on an earthen berm;~~
- ~~3. A combination of trees or shrubs and fencing where the amount of fence does not exceed 50 percent of the lineal distance of the side to be buffered as well as other plant materials, planted so that the ground will be covered within three years;~~
- ~~4. Use of existing native vegetation which meets the definition of dense vegetative screen.~~

~~C. Parking Areas. Parking areas shall be landscaped subject to the standards for parking lots found in GHMC 17.78.080.~~

INSERT GRAPHIC HERE

**8. Section 17.78.070 is amended to read:**

**17.78.070 R Perimeter landscaping requirements for nonresidential and mixed uses development.**

~~A. Perimeter Areas. Notwithstanding other regulations found in this chapter, perimeter areas shall be landscaped with trees, shrubs, and groundcover. The required width area of perimeter areas to be landscaped landscaping shall be at least the depth of the required yard or setback area or total area equivalent to the required yards. Areas to be landscaped shall be covered with live plant materials which will ultimately cover 75 percent of the ground area within three years. One deciduous tree of a minimum of two-inch caliper or one six-foot-high evergreen tree or three shrubs which will attain a height of three and one-half feet within three years shall be provided for every 300 square feet of area to be landscaped. The width of the perimeter landscape areas may be modified as provided for in this section in order to group, shape or cluster existing or planted vegetation to create modulating edges along the perimeter of a site or to create internal vegetation islands. In addition, internal vegetation island(s) may be included in the calculation of perimeter areas and shall be located in order to separate and or juxtapose buildings and/or parking areas and prioritize access points and junctions in internal circulation if the standards below are met. The total square footage of these modified perimeter landscape areas shall be equivalent to the area of the standard required perimeter width identified above.~~

~~1. Reductions to the standard perimeter landscape area width are limited as follows:~~

~~a. Perimeter landscape area widths may be reduced to not less than 1/3 of the required yard or setback area of the zone or 10 feet, whichever is greater;~~

~~b. Perimeter landscape areas which have been reduced in width shall not run the length of the existing exterior property lines for more than 2/3 of the said property line;~~

~~c. Parking and driveways may not encroach into the remaining perimeter landscape areas. However, site access driveways and pedestrian walkways may cut through the remaining perimeter landscape area substantially perpendicular to the property line.~~

~~2. All areas used in the calculation of the perimeter landscape area shall be developed as follows:~~

~~a. All significant trees as defined in GHMC 17.99.590 shall be retained. These trees can be applied towards all or some of the trees required to be retained by GHMC 17.99.240(D). Retention of other existing vegetation for landscaping is strongly encouraged; however, it must be equal to or better than available nursery stock.~~



b. If the area does not contain substantial existing canopy, understory, and groundcover vegetation, it shall be enhanced or planted as follows:

i. At least eighty (80) percent of all trees, shrubs and groundcover shall be from the preferred species list referenced in GHMC 17.78.050.

ii. Perimeter landscaping may include existing landscaping, planted or a combination of both.

iii. Areas to be landscaped shall be covered with live groundcover vegetation which will ultimately cover at least 75 percent of the ground area within three years.

iv. One deciduous tree a minimum of two-inch caliper or one six-foot evergreen tree shall be planted for every 200 square feet of area to be enhanced or planted. One-Three shrubs which will attain a height of three and one-half feet within three years shall be provided for every 400 200 square feet of area to be enhanced. The plantings shall be evenly distributed throughout in a natural planting pattern.

v. A minimum of 40 percent of the required trees shall be evergreen trees a minimum of six feet in height.

vi. For properties located within the boundaries of the height overlay district referenced in Chapter 17.62 GHMC, trees shall be of a species with a mature height no taller than the approved building.

3. Zone transition buffers required by GHMC 17.99.180 and Enhancement Corridor landscaping required by GHMC 17.99.160 shall not be reduced or modified through this Chapter.

4. All areas used in the calculation of the perimeter landscape area shall be appropriately documented on the approved land use plans, such as site plan, binding site plan or recorded final plat.

~~2. A minimum of 40 percent of the required plantings shall be evergreen trees a minimum of six feet in height. For properties located within the boundaries of the height overlay district referenced in Chapter 17.62 GHMC, trees shall be of a species that will ultimately grow to the height of the planned building.~~

#### INSERT GRAPHIC HERE

~~B. Buffer Areas~~Residential Buffering. Where a development subject to these standards is contiguous to a residential zoning district, the zone transition standards of GHMC 17.99.180 shall be met. Where a nonresidential development abuts a residential development in the same zone, then that required perimeter area shall be landscaped the full width of the setback areas as follows:

1. A solid screen of evergreen trees or shrubs;

2. A solid screen of evergreen trees and shrubs planted on an earthen berm an average of three feet high along its midline;

3. A combination of trees or shrubs and fencing where the amount of fence does not exceed 50 percent of the lineal distance of the side to be buffered as well as other plant materials, planted so that the ground will be covered within three years.

C. Areas Without Setbacks.

1. In those areas where there is no required front yard setback or where buildings are built to the property line, development subject to this chapter shall provide street trees at an interval of one every 20 feet or planter boxes at the same interval or some combination of trees and boxes, or an alternative.

2. Street trees shall be a minimum caliper of two inches and be a species approved by the city and installed to city standards. Planter boxes shall be maintained by the property owners and shall be of a type approved by the city.

~~D. Parking Area. Parking areas shall be landscaped subject to the standards for parking lots found in GHMC 17.78.080.~~

#### 9. Section 17.78.090 is amended to read:

##### **17.78.090 Screening/buffering from SR-16, Tacoma Power Cushman transmission line property and SR-16 interchanges.**

A. All development of properties adjacent to SR-16, the Tacoma Power Cushman transmission line property, and SR-16 interchange ramps shall be required to leave a buffer between the property line and any development. This buffer shall be a minimum of 30 feet in depth and shall only apply when the

property is also within the enhancement corridor. The buffer shall conform to all enhancement corridor standards defined in GHMC 17.99.160.

~~B. Adjacent to SR-16 interchange ramps landscape buffering shall be done according to the standards for perimeter landscaping for residential and nonresidential development. The buffer area shall be covered with live plant materials which will ultimately cover 75 percent of the ground cover within three years. One deciduous tree of a minimum of two-inch caliper or one six-foot evergreen or three shrubs which will attain a height of three and one-half feet within three years shall be provided for every 500 square feet of the area to be landscaped. Forty percent of the required planting shall be evergreen trees a minimum of six feet in height and of a species that will grow to the height of the buildings in the development. All significant vegetation as defined in GHMC 17.99.590 shall be retained.~~

~~CB. Parking lots designed for more than 16 cars shall either be completely screened from SR-16 or be partially screened under the provisions of the enhancement corridor standards in GHMC 17.99.160.~~

**10. A new Section 17.78.092 is added:**

**17.78.092 Protection of significant trees and existing native vegetation.**

A. Areas of native vegetation which are designated as landscape or buffer areas, or which are otherwise retained under the provisions of Chapter 17.99 GHMC, shall be subject to a 10-foot-wide no-construction zone and shall be protected by a barricade as defined in subsection D of this section. Clearing, grading or contour alteration is not permitted within this no-construction area unless an ISA qualified arborist provides written documentation that proposed construction activity within the 10-foot setback will not harm existing vegetation within the designated landscape or buffer area.

B. Encroachment into Drip Line. No construction activities shall take place within the drip line of a tree to be retained without extra precautions as recommended by an ISA certified arborist. The applicant may install impervious or compactible surface within the area defined by the drip line if it is demonstrated by an ISA qualified arborist that such activities will not endanger the tree or trees. (See the definition of "drip line" in GHMC 17.99.590.)

C. Grading. If the grade level adjoining a tree to be retained is to be altered to a degree that would endanger the viability of a tree or trees, then the applicant shall construct a dry rock wall or rock well around the tree. The diameter of this wall or well must be capable of protecting the tree beyond a no construction zone or as approved by an ISA certified arborist.

D. Tree Protection Barricade. All significant trees to be retained must be protected during construction by installation of a protective barricade. This will require preliminary identification of the proposed area of disturbance for staff inspection and approval, then installation of a protective barricade before major excavation with heavy equipment begins. The barricade must be made of cylindrical steel posts or four-inch by four-inch wood posts with chain link fence attached. Fence posts shall be eight feet on center connected with two-inch by four-inch top rails or equivalent support system. Fence height must be a minimum of four feet high.

**11. Section 17.78.120 is amended to read:**

**17.78.120 Maintenance.**

A. Whenever landscaping is required under the provisions of this chapter, shrubs and trees in the landscaping and planting areas shall be maintained in a healthy growing condition. Planting beds shall not be located over impervious surfaces. Dead or dying trees or shrubs shall be replaced immediately, and the planting area shall be maintained reasonably free of noxious weeds and trash.

B. Similarly, if necessary, the trees or shrubs shall receive pruning or removal to avoid the creation of a safety hazard or nuisance through excessive shading, overhanging adjacent properties or to preserve a view or scenic vista, subject to the provisions of GHMC 17.99.240.

C. Areas of natural vegetation shall be retained over time to maintain the health and fullness of natural vegetation and buffer areas as allowed in GHMC 17.99.240(G).

**12. Section 17.98.040 is amended to read:**

**17.98.040 Design review application requirements.**

A complete design review application shall contain the following information:



A. Site Layout. A plan, drawn to scale no smaller than one inch equals 30 feet showing location and size of all structures, critical areas, required buffer areas, required yards, landscape areas, open spaces, common areas or plazas, walkways, retaining wall locations, storm water retention facilities, and parking and vehicle maneuvering areas.

B. Significant ~~Vegetation Plan~~ Tree Survey. A significant ~~vegetation plan~~ tree survey which accurately identifies the species, size and location of all significant ~~vegetation~~ trees within the property subject to the application.

C. ~~Tree Retention Plan~~ Survey. A ~~landscape plan~~ survey showing the species, size and location of all significant ~~natural-vegetation~~ trees to be retained on the property.

D. Preliminary Site Section Drawings. Section drawings which illustrate existing and proposed grades.

E. Preliminary Grading Plan. A topographic map of the property, delineating contours, existing and proposed, at no greater than five-foot intervals. The plan shall indicate all proposed cuts, fills and retaining wall heights and include areas of disturbance necessary to construct all retaining walls, structures and impervious surfaces.

F. Preliminary Utilities Plan. A utilities plan showing the location and type of any utilities proposed in critical areas, critical area buffers and natural vegetation retention areas.

G. Paving Materials. A description of proposed pedestrian and vehicular paving materials; include proposed type (asphalt, concrete, pavers, etc.), color, scoring and texture.

H. Elevation Drawings. Complete elevation drawings of all buildings showing dimensions and proposed materials including roofing, siding, windows and trim. Drawings shall include conceptual trim and cornice design, roof pitch, and solid/void ratio and siding material calculations. If landscaping is proposed to soften or mitigate architectural modulation or details, additional elevation drawings showing proposed landscaping shall be provided.

I. Sign Plan. A sign plan showing the general location, type and size of signage on buildings.

J. Equipment Screening. A description of how all mechanical and utility equipment will be screened.

K. Color and Material Palette. A schematic color and material palette of the building's exterior siding, trim, cornice, windows and roofing. If alternative design review is requested, material and color samples shall be provided.

L. Fencing. The location and description of any proposed fencing.

M. Light Fixtures. A cutsheet showing typical parking and building lighting which includes pole height and mounting height. If proposed fixtures are near critical areas or natural vegetation retention areas, shielding shall be shown.

N. Accessories. The location of all outdoor furniture, trash receptacles and accessories.

O. Alternative Design Review. A request for alternative design review shall include a written statement addressing the criteria for approval as set forth in GHMC 17.98.055, 17.98.056, 17.98.058 or 17.98.060, as applicable.

### **13. Section 17.99.240 is amended to read:**

#### **17.99.240 Natural site conditions.**

Site development should be designed to reflect the natural conditions of the site, including topography and existing vegetation. The following standards will help to achieve this, and are applicable to all development.

#### **A. Limit clearing of vacant parcels to no more than 50 percent of significant vegetation trees and retain vegetation in all required buffers and setbacks.**

Clearing limitations apply to all vacant parcels with no approved site plan or building permit for development.

#### **B. Retain natural vegetation on underdeveloped portions of sites with approved site plan.**

Clearing of underdeveloped portions of approved site plans shall only be permitted once civil plans for development of those areas have been approved and clearing is required for civil infrastructure.

#### **C. Maintain natural topography.**

Buildings and parking lots shall be designed to fit natural slopes rather than regrading the slope to fit a particular building or parking lot design. Cuts and fills on a site shall be balanced and finished grades

shall not include any retaining walls that exceed six feet. Instead, designs shall complement and take advantage of natural topography. Sloped lots may require multileveled buildings, terraced parking lots and/or lower level parking garages.

[Note: Retain graphic at this location]

**D. Incorporate approximately 20 25 percent of significant vegetation trees into site plan the project.**

On nonresidential, and multifamily sites and residential subdivisions, at least 20 25 percent of natural significant ~~trees~~ vegetation shall be incorporated into required landscaping and retained indefinitely. The 20 25 percent calculation shall be based upon significant ~~trees~~ vegetation currently on the site and which has been cleared from the site within the past five years. All significant trees on site shall be identified and shown on a tree survey. In conjunction with the 20 25 percent retention requirement, the following options may be applied to other landscaping requirements of this chapter.

**1. REDUCED LANDSCAPING REQUIREMENTS**

Clusters of natural vegetation which form a continuous canopy at least 15 feet deep (average) and at least 20 25 percent of the parcel size (measured from the outer edges of the trunks) will meet the requirements for on-site trees; provided, that screening and buffering requirements otherwise required are met. All other landscaping requirements must be adhered to.

[Note: Retain graphic at this location]

**2. REDUCED PARKING STALL DIMENSIONS**

Parking stalls adjacent to protected trees may be reduced to eight feet by 16 feet to avoid encroachment into tree root zones.

**3. ENCROACHMENT INTO SETBACKS**

Structures and parking areas may encroach into required setbacks if it can be shown that such encroachment allows significant trees or tree clusters to be retained. Encroachment shall be the minimum encroachment necessary to protect specified trees. In no case shall the yard be reduced to less than five feet. (Not applicable to single-family and duplex development or to development subject to zone transition standards.)

[Note: Retain graphic at this location]

**E. Replace lost trees which were intended to be retained.**

~~Any tree proposed or required to be retained and which is subsequently lost or destroyed must be replaced with at least three six-foot trees or one 18-foot tree or one 12-foot plus one six-foot tree of the same species.~~

If trees required to be retained pursuant to this title or a land use approval are subsequently removed or damaged, they shall be replaced by at least one and one half times the tree diameter removed (ex. A 10" DBH tree removed will equal 15" DBH of tree diameter replaced.) A single tree may be replaced with multiple trees provided the total tree diameter at DBH equals the required replacement value.

Replacement trees shall be a minimum of six-foot trees for evergreens or 2 inch caliper for deciduous trees at planting. The trees removed shall be replaced with trees of the same type, evergreen or deciduous. Shrubs and ground cover shall also be replaced when replacing tree(s). The shrubs and ground cover shall be planted within the limits of the previous tree stand canopy.

**F. Retain the natural symmetry of trees.**

Trimming of trees shall be done in a manner that preserves the tree's natural symmetry. Topping is prohibited unless recommended by an ISA certified arborist for health or safety reasons. Limbing-up may be appropriate if sufficient crown is retained to preserve the tree's fullness and health.

**G. Maintain health and fullness of natural vegetation and buffer areas.**

Areas of natural vegetation shall be retained over time. To ensure this, volunteer saplings of coniferous trees should be allowed to grow to replace older, less healthy trees. However, it may be prudent to thin



out some saplings to avoid overcrowding if existing trees are healthy and full. A healthy and typical spacing of larger trees in a natural or forested setting is about 12 to 15 feet on center.

**14. Section 17.99.590 is amended to read:**

***GHMC 17.99.590 – Design Manual Definitions***

**Significant Trees Vegetation** A Healthy trees having a trunk diameter of at least six inches as measured 54 inches above grade. A tree growing with multiple stems shall be considered significant if at least one of the stems, measured at a point six inches from the point where the stems digress from the main trunk, is at least four inches in diameter. Alders (Alnus rubra), Cottonwood (Populus algeiros), and trees in the Poplar species shall not be considered a significant tree. A dead tree or a tree that has been identified by an ISA certified arborist as substantially diseased or damaged shall not be considered a significant tree.

**15. The following sections are amended to reflect the term change from “Significant Vegetation” to “Significant Tree”**

***Subsection 17.89.040(A) is amended to read:***

**17.89.040 Contents of complete PRD application.**

A. Preliminary PRD. In addition to the applicable requirements of GHMC 19.02.002, a complete application for preliminary PRD shall consist of the following information:

1. An environmental checklist or impact statement, as may be applicable, pursuant to GHMC Title 18;
2. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;
3. A written description addressing the scope of the project, gross acreage, the nature and size in gross floor area of each use and the total amount of land in square feet to be covered by impervious surfaces;
4. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site, as well as adjacent parcels and uses;
5. A topographic map delineating contours, existing and proposed, at two-foot intervals and which locates and classifies existing streams, wetlands, steep slopes and other natural features and/or critical areas;
6. Plans drawn to a scale no smaller than one inch equals 30 feet showing the proposed location and size of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas;
7. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site and the proposed size and location of driveways, streets and roads that have immediate impact on public rights-of-way;
8. Utility, drainage and stormwater runoff plans;
9. A plan of all proposed landscaping including buffers and screening to be used as well as identification of areas of significant ~~vegetation-trees~~ proposed to be retained;
10. A statement explaining how the proposed PRD is consistent with and implements the city of Gig Harbor comprehensive plan, the designation under the comprehensive plan, current zone classification, and desired zone classification;
11. A narrative describing how the proposed PRD provides substantial additional benefit to the citizens of the city of Gig Harbor (the benefit accruing as a result of implementation of the PRD process as opposed to following the development standards of the underlying zone) and how it is proposed the additional amenities and benefits should apply to the percentage of additional density and/or height being requested;
12. A map of the area, with area proposed for rezone outlined in red; and
13. A complete application for design review as required under GHMC 17.98.040.

\* \* \*

***Subsection 17.90.040(A) is amended to read:***

**17.90.040 Contents of complete PUD application.**

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

1. An environmental checklist or impact statement, as may be applicable, pursuant to GHMC Title 18;
2. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;
3. A written description addressing the scope of the project, gross acreage, the nature and size in gross floor area of each use and the total amount of land in square feet to be covered by impervious surfaces;
4. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site, as well as adjacent parcels and uses;
5. A topographic map delineating contours, existing and proposed, at two-foot intervals and which locates and classifies existing streams, wetlands, steep slopes and other natural features and/or critical areas;
6. Plans drawn to a scale no smaller than one inch equals 30 feet showing the proposed general location and size of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas;
7. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site and the proposed size and location of driveways, streets and roads that have immediate impact on public rights-of-way;
8. Utility, drainage and stormwater runoff plans;
9. A plan of all proposed landscaping including buffers and screening to be used as well as identification of areas of significant ~~vegetation~~ trees proposed to be retained;
10. A statement explaining how the proposed plan is consistent with and implements the city of Gig Harbor comprehensive plan, the designation under the comprehensive plan, current zone classification, and desired zone classification;
11. A narrative describing how the proposal provides substantial additional benefit to the citizens of the city of Gig Harbor (the benefit accruing as a result of implementation of the PUD process as opposed to following the development standards of the underlying zone), and how it is proposed the additional amenities and benefits should apply to the percentage of additional density or gross floor area, or additional height being requested;
12. A complete application for design review as required by GHMC 17.98.040; and
13. A map of the area, with the area proposed for any rezone outlined in red.

\* \* \*

***Article III of Section 17.99.020 is amended to read***

**Article III. SITE DESIGN.**

This article addresses how projects relate to their own site. It requires that design consideration be given to topography, building location, walkways, parking, landscaping, open space and common areas. It encourages pedestrian access, outdoor activities, and preservation of significant ~~vegetation~~ trees and existing views.

***Subsections 17.99.160 (A, B and C) are amended to read***

**17.99.160 Enhancement corridor standards.**

All development within enhancement corridors must conform to the following design criteria:

**A. Retain significant vegetation.**

Significant ~~vegetation~~ trees within 30 feet of the property line abutting the street rights-of-way or City of Tacoma Cushman transmission line properties within the enhancement corridor shall be retained.

**B. Provide full screening or partial screening with glimpse-through areas.**

Parking lots and structures in any area of the defined enhancement corridor must be fully screened from SR 16, except they may be viewed through a semi-transparent screen of on-site trees as follows:

PC Recommendation – Trees, Landscaping and Vegetation

1. Neither full or semi-transparent screening is required on parcels designated as prominent parcels on the city's visually sensitive areas map, except that significant vegetation trees within 30 feet of the property line abutting the street rights-of-way or City of Tacoma Cushman transmission line properties within the enhancement corridor shall be retained.
2. Semi-transparent screens must provide at least 70 percent year-round foliage coverage distributed evenly across the view along the SR 16 right-of-way and City of Tacoma Cushman transmission line properties and 50 percent coverage along the Canterwood Blvd/Burnham Drive/Harborview Drive rights-of-way. Semi-transparent screens may consist of new vegetation only if healthy existing vegetation is not adequate to fulfill this requirement.

[Note: Retain graphic at this location]

3. A semi-transparent screen shall not be a rigid line of trees along the property's edge. Rows of trees existing along property edges shall be retained. Additional trees are required so that a staggered, natural growth pattern is retained or achieved.

**C. Maintain 30-foot setbacks from the rights-of-way and City of Tacoma Cushman transmission line properties that define enhancement corridors.**

Parcels abutting defined enhancement corridor rights-of-way and City of Tacoma Cushman transmission line properties must maintain a 30-foot setback within which no structures or parking lots shall be allowed. Existing significant vegetation trees within the setback shall be retained.

\* \* \*

*Subsection 17.99.220(D) is amended to read*

**17.99.220 Prominent parcel standards.**

All development of prominent parcels shall conform to all applicable development standards of this title and to the following additional standards:

\* \* \*

**D. Keep structures in the foreground.**

To provide further emphasis to design, buildings shall be located at the front setback line unless significant vegetation trees warrants placing the building further back.

\* \* \*

*Subsection 17.99.300(B) is amended to read*

**17.99.300 Nonresidential setbacks.**

The following standards apply to all nonresidential development. In order to deviate from minimum setback standards, approval must be obtained through the variance process defined in Chapter 17.66 GHMC and not through the design review process.

\* \* \*

**B. Locate structures near front setback line (IBE).**

At least 50 percent of the primary structure's front facade shall be placed on the front setback line (except in the historic district or unless retention of significant vegetation tree(s) warrants an increased setback). Additional structures on the site shall be likewise placed on the front setback line unless they are located behind other structures on the site. The remaining portion of the building may be stepped back to accommodate common areas or parking. However, no more than 50 percent of required parking may be located forward of the front façade of a building (see parking standards in GHMC 17.99.330(E)).

\* \* \*



***Subsection 17.99.390(A) is amended to read***

**17.99.390 Hierarchy in building design.**

The following standards apply to all nonresidential sites with more than one building or with one or more multitenant buildings, and on all prominent parcels identified on the city's visually sensitive areas map (see Appendix A of this chapter).

**A. Design primary structures as a focal point (IBE).**

Primary structures shall be designed to serve as a visual draw to a site. Primary structures shall be designed as follows:

**1. Must be prominently visible to the public.**

Primary structures shall be the focal point of development and must be prominently visible to the public right-of-way giving access to the project, unless significant vegetation tree(s) warrants a less visible structure, or unless visibility is otherwise prohibited (e.g., enhancement corridors).

**2. Must have the appearance of at least two levels.**

To provide a more stately appearance, primary structures shall have at least two floors (minimum eight feet apart). The second floor level shall be at least one-third the area of the lower floor area. Alternatively, primary structures may be single-floor buildings with roofs having a minimum pitch of 8/12, and which contain dormer windows on every roof plane having a ridge length of 40 feet or more. One dormer window with a glazing area of at least 15 square feet shall be required for every 40 feet of ridge length (or portion thereof). Dormer windows shall be functional, providing natural light into the finished and heated area of the building.

**3. May have limited increased height.**

Primary structures may include an area not to exceed 10 percent of the building's footprint that rises above the underlying height limit; provided, that the parcel is not located in the height restriction area defined in Chapter 17.62 GHMC. The height increase must be in building volume rather than as an extension of a parapet. This height increase shall not exceed eight feet, and shall not be applied to building heights otherwise restricted under zone transition standards in GHMC 17.99.170.

**4. Must provide a prominent entrance.**

Primary structures shall include a prominent entrance which faces or is clearly visible from the street. The entrance shall be defined by a projecting or recessed portico or a clearly defined doorway designed as a focal point in the facade design.

\* \* \*

## Preferred Species for Planting (GHMC 17.78.050)

### Evergreen Trees

<u>Common Name</u>	<u>Scientific Name</u>
Douglas fir	<i>Pseudotsuga menziesii</i>
Grand fir	<i>Abies grandis</i>
Madrone	<i>Arbutus menziesii</i>
Sitka spruce	<i>Picea sitchensis</i>
Western hemlock	<i>Tsuga heterophylla</i>
Western red cedar	<i>Thuja plicata</i>
Western white pine	<i>Pinus monticola</i>

### Deciduous Trees

<u>Common Name</u>	<u>Scientific Name</u>
Bigleaf maple	<i>Acer macrophyllum</i>
Bitter cherry	<i>Prunus emarginata v. mollis</i>
Garry oak (Oregon white oak)	<i>Quercus garryana</i>
Oregon ash	<i>Fraxinus latifolia</i>
Pacific crabapple	<i>Malus fusca (Pyrus fusca)</i>
Pacific willow	<i>Salix lucida spp. lasiandra</i>
Pacific dogwood	<i>Cornus nuttallii</i>

### Additional Trees for Height Restriction Area or under Power Lines

<u>Common Name</u>	<u>Scientific Name</u>
Shore pine	<i>Pinus contorta</i>
Western yew	<i>Taxus brevifolia</i>
Alpine Fir	<i>Abies lasiocarpa</i>
Vine maple	<i>Acer circinatum</i>

### Evergreen Shrubs

<u>Common Name</u>	<u>Scientific Name</u>
Evergreen huckleberry	<i>Vaccinium ovatum</i>
Labrador tea	<i>Ledum groenlandicum</i>
Low Oregon grape	<i>Mahonia nervosa</i>
Pacific rhododendron	<i>Rhododendron macrophyllum</i>
Salal	<i>Gaultheria shallon</i>
Tall Oregon grape	<i>Mahonia aquifolium</i>

### Deciduous Shrubs

<u>Common Name</u>	<u>Scientific Name</u>
Baldhip rose	<i>Rosa gymnocarpa</i>
Beaked hazelnut	<i>Corylus cornuta</i>
Black gooseberry	<i>Ribes lacustre</i>
Black hawthorn	<i>Crataegus douglasii v. suksdorfii</i>
Black twinberry	<i>Lonicera involucrata</i>

### Deciduous Shrubs (cont.)

<u>Common Name</u>	<u>Scientific Name</u>
--------------------	------------------------

Blue elderberry	<i>Sambucus caerulea</i>
Cascara	<i>Rhamnus purshiana</i>
Clustered wild rose	<i>Rosa pisocarpa</i>
Douglas maple	<i>Acer glabrum v.douglasii</i>
Hairy manzanita	<i>Arctostaphylos columbiana</i>
Hardhack, Douglas spirea	<i>Spirea douglasii</i>
Highbush cranberry	<i>Viburnum edule</i>
Hookers willow	<i>Salix hookeriana</i>
Indian plum	<i>Oemleria cerasiformis</i>
Mock orange	<i>Philadelphus lewisii</i>
Mountain ash	<i>Sorbus sitchensis</i>
Nootka rose	<i>Rosa nutkana</i>
Oceanspray	<i>Holodiscus discolor</i>
Orange honeysuckle	<i>Lonicera ciliosa</i>
Oval-leaved blueberry	<i>Vaccinium ovalifolium</i>
Pacific ninebark	<i>Physocarpus capitatus</i>
Red elderberry	<i>Sambucus racemosa</i>
Red-flowering currant	<i>Ribes sanguineum</i>
Red-osier dogwood	<i>Cornus sericea v.stolonifera</i>
Salmonberry	<i>Rubus spectabilis</i>
Scouler willow	<i>Salix scouleriana</i>
Serviceberry	<i>Amelanchier alnifolia</i>
Sitka willow	<i>Salix sitchensis</i>
Snowberry	<i>Symphoricarpos albus</i>
Stink currant	<i>Ribes bracteosum</i>
Thimbleberry	<i>Rubus parviflorus</i>
Vine maple	<i>Acer circinatum</i>

### **Groundcovers**

<u>Common Name</u>	<u>Scientific Name</u>
Bunchberry	<i>Cornus canadensis</i>
Camas	<i>Camassia quamash</i>
Coastal strawberry	<i>Fragaria chiloensis</i>
Creeping mahonia	<i>Mahonia repens</i>
Deer fern	<i>Blechnum spicant</i>
Goat's beard	<i>Aruncus sylvester</i>
False lily-of-the-valley	<i>Maianthemum dilatatum</i>
False Solomon's seal	<i>Smilacina racemosa</i>
Kinnickinnick	<i>Arctostaphylos uva-ursi</i>
Lady fern	<i>Athyrium filix-femina</i>
Large leaf avens	<i>Geum macrophyllum</i>
Nodding onion	<i>Allium cernuum</i>
Pacific bleeding heart	<i>Dicentra formosa</i>
Pearly everlasting	<i>Anaphalis margaritacea</i>

### **Groundcovers (cont.)**

<u>Common Name</u>	<u>Scientific Name</u>
Piggy-back plant	<i>Tolmiea menziesii</i>
Seathrift	<i>Armeria maritima</i>



Sword fern	<i>Polystichum munitum</i>
Twinflower	<i>Linnaea borealis</i>
Western columbine	<i>Aquilegia formosa</i>
Western trillium	<i>Trillium ovatum</i>
Wild ginger	<i>Asarum caudatum</i>
Wild strawberry	<i>Fragaria virginiana</i>
Wood fern	<i>Dryopteris expansa</i>
Yarrow	<i>Achillea millefolium</i>

9/19/14

Members of the Gig Harbor City Council, and Mayor Guernsey

**Re: First Reading/Public Hearing, Trees Ordinance, 9/22**

I apologize that I will not be in town on Monday night to comment at the hearing for the new trees ordinance. I say new, but as most of you will remember, this process was begun as a response to the public outcry from the site stripping for "Uptown" more than 4 years ago. You will remember as well that the Planning Commission was just beginning its in-depth re-work of the Shoreline Master program at the time, and so Darrin Filand and I volunteered the Design Review Board to study the issue and develop recommendations. We presented our findings to the Council approximately a year later, and the work only got back to the Planning Commission after a request last Fall to scale back the scope of the review and put it on the PC work program following the downtown height amendments.

The scope ultimately became a combination of a distilled version of the DRB recommendations- focusing on buffer modulation and internal native plantings -and staff recommendations to improve the native species list, enforcement, and the definition of "significant" trees.

Public comments within the scope, tree ordinances from other local jurisdictions, as well as feedback from landscape and development professionals were thoroughly considered, along with the staff and DRB recommendations, and the result is before you.

I believe this is a very comprehensive ordinance, and like most ordinances related to development, fully grasping its impacts involves a careful reading of the details and working through and considering potential design scenarios, while recognizing – as always – the boundaries within which the work is done. Often this means defining the most common conditions that the ordinance will apply to, while recognizing that there will always be anomalies at the margins that cannot be reconciled, and broader systemic limits that cannot be easily changed.

I believe this ordinance – as was the original goal of the DRB – will add more flexibility to the site design process, and will result in the location of native trees – existing or planted - in more natural and healthier groupings than we have seen under the current code. This is an important step as we continue to become more urban, but are simultaneously and increasingly required to protect air, habitat, and water quality in Gig Harbor.

Hopefully, following the public comment on the 22nd, we will have more time to discuss this at the meeting on the 6th, and I look forward to that opportunity.

Sincerely,



Rick Gagliano  
DRB/PC Liaison

September 19, 2014

Mayor Jill Guernsey  
Gig Harbor City Hall  
3510 Grandview Street  
Gig Harbor, WA 98335

Mayor Guernsey and City Council Members,

This letter is in reference to the proposed Tree, Landscaping and Screening Development Standards code amendments which are being proposed. On behalf of the Master Builders Association of Pierce County (MBA Pierce), thank you for your consideration of these comments.

MBA Pierce and its members would like to express concern over several proposed code amendments and their resulting prohibitions on property developments within Gig Harbor. The following provisions within the proposed amendments have been identified specifically as being areas of concern for the building industry:

1. On page 11 of the ordinance, item D requires that approximately 25% of significant trees to be incorporated into the required landscaping and retained indefinitely. This will result in not hitting densities. There should be preparation to up-zone sites to encourage apartments and multi-family housing where single family housing exists today in order to achieve Growth Management Act requirements and the 25% retention requirement could interfere with that type of development. MBA Pierce and its members would ask that the City Council vote to reject this amendment.
2. On page 11 of the ordinance, item E titled "Replacement trees" the preferred planting for perimeter buffers appears to be a 6' conifer or 2' deciduous tree for every 200 square feet of area. The ordinance also requires 1.5' of caliper for every 1' of caliper removed. Assuming a 10' existing tree required to be replaced, the required replacement would be 15' of caliper. Using the same ratio for spacing, that 10' tree would need 1500 square feet of site area for placement. Four such trees effectively require a building lot to be given up for the tree planting. Mortality of existing trees after development is not uncommon due to changes the tree endures. This creates a concern where there would be no place left to plant the trees. Additionally, if you plant too many on the lots, the homeowners will cut them down after closing on the home. MBA Pierce would ask that the City Council reject this amendment to the ordinance.

There is a portion of the ordinance on page 12, Section 17.99.590 which is not part of the amendments which members of the MBA Pierce would ask the City Council to



consider changing. The first sentence reads that significant trees will be identified as those trees which have a "trunk diameter of at least six inches as measured 54 inches above grade." Members of MBA Pierce would assert that 6' is too low a threshold for a significant tree and that most jurisdictions with tree retention ordinances use 24' and 30' for multi-stem trees such as maples. MBA Pierce and its members would ask that you consider amending this provision to be more in line with the 24' to 30' standard.

MBA Pierce requests that the City Council consider these comments and reject the amendments listed above and make an amendment to Section 17.99.590 regarding trunk diameter of significant trees.

Thank you for your consideration of these comments. Please feel free to contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremiah J. Lafranca", with a long horizontal line extending to the right.

Jeremiah J. Lafranca, Government Affairs Manager

CC: Timothy Payne, Position 1  
Steven Ekberg, Position 2  
Casey Arbenz, Position 3  
Rahna Lovrovich, Position 4  
Ken Malich, Position 5  
Michael Perrow, Position 6  
Paul Kadzik, Position 7

Margaret Y. Archer  
Direct: (253) 620-6550  
E-mail: marcher@gth-law.com

September 22, 2014

Mayor Jill Guernsey  
City Council  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

RE: Proposed Amendments to Tree Retention Ordinance  
(GHMC Chapters 17.98 and 17.99)

Dear Mayor Guernsey and Council Members:

I have been requested by clients to comment on the proposed amendment to the City's tree retention regulations. Most particularly, I have been asked to comment on the proposed amendment to increase the retention requirement from 20% of significant vegetation on nonresidential and multifamily sites to 25% of "significant trees" on nonresidential, multifamily and residential subdivision sites (GHMC 17.99.240(D)). Additional study of the impact of the proposed amendments on affected parcels should be required before legislative action is taken.

The proposed amendment replaces in the Design Review regulations the term "significant vegetation" with the term "significant trees" and requires that 25% of "significant trees" be retained on nonresidential, multifamily and residential subdivision sites. Previously, the retention requirement in GHMC 17.99.240 was limited to 20% of significant vegetation, and was only applied to nonresidential and multifamily sites. Significant trees are defined in the proposed amendment to include trees of at least six inches in diameter, as measured 54 inches above grade, or trees with multiple stems if at least one stem, measuring six inches from where the stem digresses from the main trunk, is four inches in diameter. Alders, Cottonwoods and Poplars are excluded. While the exclusion of Alders, Cottonwoods and

Reply to:  
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1201 Pacific Ave., Suite 2100 (253) 620-6500  
Tacoma, WA 98402 (253) 620-6565 (fax)

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Seattle, WA 98101 (206) 676-7575 (fax)

Poplars is a positive change,<sup>1</sup> the proposed amendment nonetheless places a significant and new burden on residential sites that do not have such trees, but are fully or substantially occupied by “significant trees” as newly defined.

I understand that City Staff believes that the relief from this new and increased burden is provided through the option of reducing the required 25-foot buffer to a modulated buffer as little as 10 feet in some areas. (See proposed amendment to GHMC 17.78.060.) While this option may provide some relief for properties that are not predominantly occupied by “significant trees,” this will not be the case for all properties.

First, for property with “significant trees” predominantly located in the interior of the site, rather than in the exterior perimeter, the potential modulated buffer provides no or little relief, as the property owner will still have to provide the minimum exterior buffer and retain 25% of the significant trees mostly located in the interior of the site. Under the existing code, owners of property being developed into residential plats only must retain trees within a 25-foot exterior buffer, but have no obligation to retain trees in the interior of the site. Thus, owners of property with substantial “significant trees” at the interior of the site will have a much smaller developable area under the new code because they will lose developable area to the perimeter buffer and, to meet the wholly new requirement, to the interior area occupied by trees – which area would otherwise be developable under the existing code. The loss of developable area to the interior retention requirement is compounded by the fact that these sites will be divided into lots to meet the urban density requirements of the Growth Management Act as implemented in the Gig Harbor Comprehensive Plan.

Additionally, sites that are heavily occupied with “significant trees” and on which there are no Alders, Cottonwoods and Poplars, are specially burdened with increased mandatory tree retention. The City Staff and Planning Commission seem to assume that all sites have a combination of “significant trees” and Alders, Cottonwoods and Poplars. In the summary page provided in the Council packets, Staff states: “In response to removal of fast growing species, the Planning Commission proposed an increase in the tree retention requirements from the existing 20% of significant trees onsite to 25% requirement.” This assumption, however, is incorrect. There are affected parcels within the city limits that have no or very few such fast growing species, but are nonetheless heavily wooded. These parcels are being saddled with an increased retention burden to benefit the public without the requisite nexus

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<sup>1</sup> We believe it is now well-established that Alders, Cottonwoods and Poplars also present safety concerns.



and proportionality to development impacts. The revised ordinance as applied to these parcels will constitute an unconstitutional taking of property without compensation and also violate RCW 82.02.020. See *Isla Verde International Holdings, Inc. v City of Camas*, 99 Wn. App. 127, 137-142 (2000), *affirmed*, 146 Wn.2d 740 (2002).<sup>2</sup>

My clients are not opposed to some revision of the existing regulations that actually further the City's objectives and do not unduly burden certain property owners. However, the regulations should not be amended without a clear understanding of the parcels that will be impacted and the extent of the impact.

We simply request that the City defer action on the proposed ordinance and allow for additional study and public comment to determine the number of parcels within the City limits that will be impacted by the proposal and the scope of the impact. We would expect that, before the Council acts it should be provided, at a minimum, a map showing the approximate number of parcels within the city limits that will be affected by the revised regulations and the likely outcome of application of the regulations. What the Council has now is a concept, without any information that allows it to determine the result that will follow implementation of the proposed amendments. We believe that one likely result will be that certain properties will be disproportionately burdened and inverse condemnation suits will be filed to address the undue burden. This outcome can be avoided, however, if the Council waits to act until it has more complete information and adjustments can be made to ensure that proposed amendments are within the confines of applicable statutes and the Constitution.

We request that the Council defer action on the proposed amendments and direct the Staff to conduct additional site-specific study and evaluation of the impacts of the proposed amendments. The additional study should include solicitation of input from owners of affected parcels. Until such study is done, however, the proposed amendments should not be adopted.

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<sup>2</sup> The Supreme Court affirmed Division II of the Court of Appeals' decision in *Isla Verde* that a 30% open space requirement violates RCW 82.02.020 because the requirement was not reasonably related to impacts caused by the project. 146 Wn.2d at 755-765. Though the Supreme Court only directly addressed the statutory violation, as noted by Division II in a subsequent decision, it "left intact our previous holding that the mandatory 30 percent open space set-aside was unlawful because it violated the takings clause of the United States Constitution." *Isla Verde International Holdings, Ltd. v. City of Camas*, 147 Wn. App. 454, 475, n.24 (2008).

Gordon Thomas Honeywell<sup>LLP</sup>  
September 22, 2014  
Page 4

Thank you for your consideration.

Very truly yours,



Margaret Y. Archer

MYA:mya  
clients

# WASHINGTON FORESTRY CONSULTANTS, INC.

FORESTRY AND VEGETATION MANAGEMENT SPECIALISTS



W F C I

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1919 Yelm Hwy SE, Suite C  
Olympia, WA 98501

Memo To: Wade Perrow

From: Galen Wright, ASCA, ACF  
Board Certified Master Arborist No. 0-129BU  
Certified Forester No. 44  
ISA Tree Risk Assessor Qualified

Date: September 17, 2104

RE: Review of Proposed Trees, Landscaping and Vegetation Amendments to 17.78

I reviewed the information included in the Proposed Amendments relating to Trees, Landscaping, and Vegetation Ordinance proposed by the Planning Commission. I can provide the following comments relating to the City's Comprehensive Plan Goal noted in the Planning Commission Report dated 6/26/2014 and the Proposed Tree Ordinance. My review is based on my professional knowledge and training in the area of tree and forest management; my qualifications included Certified Forester No. 44, ISA Board Certified Master Arborist No. PN-0129BU, Tree Risk Assessor Qualified.

### City's Comprehensive Plan Goals and Policies

1. Goal 3.10.2 - states "...should be retained where feasible" the Planning Commission want to save large trees on small lots - this is a challenge when the trees were part of a forest stand. Between grading, exposure (removal of neighboring trees), weak branching (lower branches have already been shaded out), and the fact that after the Growth Mgt. Act, lot sizes tend to be small (under 5,000 sq. ft.), there usually is not space to save a tree and have it be stable (safe), be attractive, or be a long-term tree.  
**Replanting native trees when adequate space is provided, is often a preferred alternative. In 10 years a Douglas-fir or western redcedar can be 15-25 ft. tall and very attractive, versus a saved tree that is unhealthy, unsafe, and dying in 10 years. If native trees are to be saved, they should be saved in tree tracts - the larger the better.**
2. Goal 3.10.5 - Landscape buffers along roads - native tree strip 10-25 ft. wide will not be stable, and not healthy in the short and long-term in most cases.  
**Where powerlines and streets are the targets, citizens are put at risk as they travel the streets, and inconvenienced by frequent power outages, or **safety concerns** of downed powerlines.**



3. Goal 3.21.1 (a) - 25% seems like a huge taking, to me. The GMA has forced small lots upon us to get the required densities. This does not provide space for retaining trees from native stands on lots.

**Keep in mind that some native species are not desirable to be saved around houses.**

Goal 3.21(b) (c) and (d) - Already being addressed in other existing ordinance sections.

#### 4. Proposed Tree Ordinance 17.78

- a. 17.78.092 - 10 ft. and even 25 ft. wide strips of native trees along roads, powerlines, and property lines are usually subject to blowdown, sunscald, and generally are not healthy, long-term trees.

**The public safety is put at risk from trees that fail onto roads, onto powerlines, and onto houses. Downed powerlines not only cause inconvenient power outages, but are a safety concern, since they often stay energized on the ground. A Peninsula Power customer touched one of these about 15 years ago - he and his dog perished.**

- b. A top rail on a chain-link tree protection fence is unnecessary.

**It specifies round posts - when T-bar fence posts are easy to install, cheap, and hold up chain-link just fine installed on 8 ft. centers.**

- c. 17.99.240 (D) - cannot save the 25% of the trees and vegetation scattered across a lot or residential subdivision.

**Isolated trees saved from a forest stand are not windfirm and will not be healthy long-term trees if saved, in most cases. If clusters of trees are saved, the term 15 ft. deep canopy is not very useful, and certainly not much more than a tree wide.**

- d. 17.99.240 (E) talks about replacing lost trees - as if they know that some of these isolated trees will die or blow down. But, there is no discussion of 'risk' posed by these trees to targets (people, cars, buildings, etc) while they are in that first winter of dying and falling down.

**Saving isolated trees, or inadequate sized clusters is a problem, a safety risk, and not a good long-term plan. Replanting native trees where space is provided will give us healthy attractive trees in 10 years, versus dying trees that may cause property damage, injury or death in the early years after retention on a project.**

- e. 17.99.160 - Retention of trees within 30 ft. of a property line abutting a street - the counties, cities and utilities used to require this before around 1990.

**Across the board, Retention of trees within 30 ft. of a property line abutting a street was eliminated or changed, because so many tree failures were occurring onto streets, cars, pedestrians, houses, driveways, and powerlines. Let's not mandate that same old regulations and practices that we learned were 'wrong' many years ago.**

## Towslee, Molly

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**From:** Sehmel, Lindsey  
**Sent:** Monday, September 22, 2014 1:26 PM  
**To:** Kester, Jennifer; Towslee, Molly  
**Cc:** asummerfield@omwlaw.com  
**Subject:** FW: Proposed Tree Ordinance

**Importance:** High

Comment letter regarding tonight's meeting.

Lindsey Sehmel, AICP  
Senior Planner  
City of Gig Harbor

---

**From:** Barline, John [mailto:[jbarline@williamskastner.com](mailto:jbarline@williamskastner.com)]  
**Sent:** Monday, September 22, 2014 1:18 PM  
**To:** Jill Guernsey; Sehmel, Lindsey  
**Subject:** Proposed Tree Ordinance  
**Importance:** High

To: Gig Harbor City Council

Dear Mayor Guernsey and Council Members:

I am the attorney for the Haub Family, owners of some large parcels of property in the City which include the Boat Barn, the area where the Green Turtle Restaurant and Sunset Yachts are located, and the large heavily treed triangular area behind them bordered by Harborview and Soundview. My clients view themselves as avid environmentalists and lovers of trees, yet they have some serious questions about the proposed tree ordinance.

First, a required retention of 25% of the existing trees seems like an extremely large amount and tantamount to a "taking". A few years back, my clients could have legally clear cut their property – although they would have never done so since they love trees. Now you are forcing them to retain 25% of the trees on what is currently probably one of the most densely treed lots in the downtown! This is Not fair compared to other parcels which may have no trees or currently only 1/3<sup>rd</sup> of the density. Practically speaking, have you now made my clients "commercially" zoned property undevelopable from an economic standpoint? The Haubs have no issue with maintaining and keeping trees responsibly in a development, but 25% is overkill.

Secondly, landscaping buffers of trees along roadways may be very nice in rural areas, but not in the downtown. That is supposed to be for commercial retail, businesses, housing, and so forth. A planned city park with trees is nice, but not one forced on us through an "ordinance" and indirectly "takes" my clients property rights away. Is the Haub property is being "targeted" by the Council with this ordinance??? Or is this just an inadvertent result?

Further, we question the advisability of 10 to 25 foot wide tree buffer strips along the roadways of the city. Although such may initially be pretty, such can often become extremely dangerous. The clear danger is when storms hit. Trees now in the newly required narrow strips are much more susceptible to blow downs resulting in danger to people, power outages, trees across roadways and sidewalks and damage buildings, etc. Not good. Remember the canopy of one mature fir tree can easily take up the entire width of a 10 to 25 foot wide buffer. Most cities do not have this sort of a downtown, commercial district or even residential mandate for good safety reasons. Shouldn't we learn from them?

Finally, I ask IF the City Planning Department has actually tested its ordinance and applied it to any specific parcels in the downtown? I suggest the Council PUT THE VOTE OFF for a time and study the impact on various parcels in the City. I would invite the Planning Department to work WITH US and do a test on my client's property so that we can all see what the actual impacts might be. I believe "test applications" to a number of varied properties would be something the City Council would want before an Ordinance like this is adopted.

Respectfully submitted.

**John D. Barline**

Attorney at Law

Williams Kastner

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