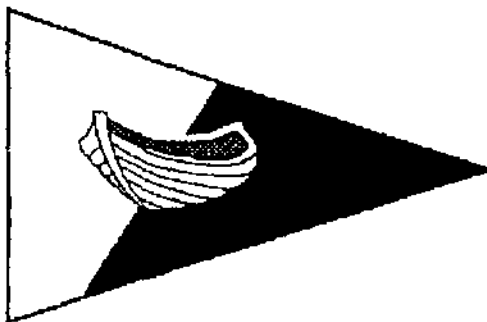


First reading  
Ord 710

Return to  
City Clerk

# **GIG HARBOR CITY COUNCIL MEETING**



**October 23, 1995**

**7:00 P.M., CITY HALL COUNCIL CHAMBERS**





City of Gig Harbor. The "Maritime City."  
 3105 JUDSON STREET  
 GIG HARBOR, WASHINGTON 98335  
 (206) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: TOM ENLOW**  
**DATE: October 17, 1995**  
**SUBJECT: PUBLIC HEARING - 1996 GENERAL FUND REVENUE SOURCES**

**INTRODUCTION**

Chapter 251, Laws of 1995 requires cities to hold a public hearing on revenue sources for the next year's general fund budget. The hearing must include considerations of possible increases in property tax revenues.

**Budgeted General Fund Revenue Summary**

Revenue Source	1995	1996	1997
Property Taxes (50% is budgeted in the Street Fund)	\$235,000	\$262,721	\$275,000
Sales Tax	950,000	1,200,000	1,470,000
Other Taxes	306,000	374,125	466,000
Licenses and Permits	114,400	144,700	135,000
Intergovernmental Revenues	111,938	88,513	78,111
Fines and Forfeits	90,000	100,000	100,000
Miscellaneous Revenues	62,000	80,300	85,000
<b>Total Revenues</b>	<b>1,869,338</b>	<b>2,250,359</b>	<b>2,609,111</b>
Beginning Cash Balance	517,000	700,000	900,000

The above chart includes only General Fund revenues. Only 50% of property taxes are included. The other 50% is budgeted in the Street Fund.

The "city" portion of property taxes is shared by the City, Fire District and Library District and is limited to \$3.60 per thousand of assessed valuation in total (except for voted "excess levies"). The 1995 rates are: City - \$1.6202; Fire District - \$1.5000; Library District - \$0.4743; Total - \$3.5945. Each year the tax rate is also limited by the 106% limit which prevents taxes on existing property from increasing more than 6% per year. The calculation of assessed valuation and the various limits is performed by the County and results in a reliable estimate of revenue in December or January. As a result, we have little control over the amount of our property tax revenue and just seek to maximize it each year.

The above chart also includes \$300,000 in sales and other taxes which are contingent on a mid-year annexation of the Westside.



**AGENDA FOR GIG HARBOR CITY COUNCIL MEETING**  
**October 23, 1995 - 7:00 p.m.**

**PUBLIC COMMENT/DISCUSSION:**

**PUBLIC HEARINGS:**

1. Amendments to Title 17 of the GHMC (Zoning Code)
2. Amendments to Title 16 of the GHMC (Subdivision Code)
3. New Title 19 of the GHMC ( Land Use Development Permits Administrative Procedures)
4. New Chapter 17.10 (Hearing Examiner - replaces current Chapter 17.10)
5. New Chapter 17.15 (Public Institutional Zoning District Standards)
6. New Chapter 17.45 (Employment Zoning District Standards)
7. New Chapter 17.65 (Special Use Permits )
8. Revenue Sources - 1996 General Fund Budget

**CALL TO ORDER:**

**APPROVAL OF MINUTES:**

**CORRESPONDENCE:**

**OLD BUSINESS:**

1. Viacom Cable TV Franchise "Change of Ownership" - Second Reading of Ordinance.
2. Fire District #5 Emergency Operation Center - Contract for Request for Water.

**NEW BUSINESS:**

1. First Reading of Ordinances:
  - A. Amendments to Title 17 of the GHMC (Zoning Code)
  - B. Amendments to Title 16 of the GHMC (Subdivision Code)
  - C. New Title 19 of the GHMC ( Land Use Development Permits Administrative Procedures)
  - D. New Chapter 17.10 (Hearing Examiner - replaces current Chapter 17.10)
  - E. New Chapter 17.15 (Public Institutional Zoning District Standards)
  - F. New Chapter 17.45 (Employment Zoning District Standards)
  - G. New Chapter 17.65 (Special Use Permits )
2. Hearing Examiner Recommendation: SPR94-05/VAR95-08/CUP94-06) - Arabella's Landing Office Building.
  - a) Appeal of Hearing Examiner's Decision on CUP94-06 - R. Frisbie, appellant
  - b) Appeal of Hearing Examiner's Decision on CUP 94-06 - P. Kaditch, appellant
  - c) Appeal of Hearing Examiner's Decision on VAR 94-05 and CUP 94-06 - Stan Streamns.
3. 1996 Tax Levy Ordinance - First Reading.
4. Request to Purchase Utility Management Software.

**MAYOR'S REPORT:**

**COUNCIL COMMENTS:**

**STAFF REPORTS:**

1. Tom Enlow, Finance Director - Quarterly Report.
2. Lt. Bill Colberg - GHPD.

**ANNOUNCEMENT OF OTHER MEETINGS:**

**APPROVAL OF BILLS:**

**APPROVAL OF PAYROLL:**

**EXECUTIVE SESSION:** Claims.

**ADJOURN:**

**REGULAR GIG HARBOR CITY COUNCIL MEETING OF OCTOBER 9, 1995**

**PRESENT:** Councilmembers Picinich, Owel, Markovich and Ekberg. Councilmember Platt acted as Mayor Pro Tem in Mayor Wilbert's absence.

**PUBLIC COMMENT / DISCUSSION:** None.

**CALL TO ORDER:** 7:05 p.m.

**APPROVAL OF MINUTES:**

**MOTION:** Move approval of the minutes of the September 25, 1995 meeting as presented.  
Owel/Picinich - three voting in favor. Councilmember Markovich abstaining.

**CORRESPONDENCE:**

None.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

1. Viacom Cable TV Franchise "Change of Ownership" - First Reading of Ordinance. Mark Hoppen introduced this ordinance approving the change of control of the franchise between the City of Gig Harbor and Viacom Cablevision governing the operation and maintenance of a cable television system. Councilman Markovich voiced his concerns about the need to pass an ordinance that he didn't clearly understand. Carol Morris, legal counsel, explained that the FCC requirements state that local jurisdictions have 60 days to approve an ordinance recognizing the transfer of control. If no action is taken, the transfer still takes affect.

Mr. Hoppen introduced Diane Lachel from Viacom to answer questions. Ms. Lachel explained the amount of paperwork that was involved with the transfer and that the Council had three options: 1) to do nothing, and the transfer would still take affect in December; 2) to approve the ordinance that had been presented to acknowledge the change of ownership; and 3) to not approve or deny if just cause could be shown. Councilmember Markovich again restated his concerns that he was not willing to approve an ordinance that stated the transfer was "deemed in the best interest to the citizens of Gig Harbor", when in fact, he had no idea whether or not it was.

Carol Morris added that Council could pass an ordinance with the objectional language removed. She said that the advantage to passing an ordinance of this type was to have a clear record to show the new assignee for the existing franchise agreement with the City of Gig Harbor and Viacom. This ordinance will return for a second reading at the next council meeting.

2. Legal Rate Increase Agreement for 1995. Mark Hoppen briefly introduced this proposal for legal services. He added that this proposal was similar to, but less than last year's request for increases.

**MOTION:** Move to approve the proposed rate adjustment for legal services for 1996.  
Ekberg/Markovich - unanimously approved.

3. SDP95-02 - Pleasurecraft Marina. Mayor Pro Tem Platt asked if any Councilmembers wished to reveal any ex parte oral or written communications on this matter, or to disclose any potential appearance of fairness issues, or if any member of the audience had any appearance of fairness challenges to any of the Councilmembers or Mayor. There was no response to this query. He then asked the representatives for the project to take an oath of honesty in any testimony that may be given. The two representatives for the project stood and answered affirmatively to the oath of honesty.

Ray Gilmore then gave an overview of the Hearing Examiner's findings, conclusions, and recommendation for approval for the shoreline permit application to add five uncovered moorage slips and the removal of underground fuel tanks at the marina located at 3215 Harborview Drive. Councilmember Platt questioned the limiting of the vessel length to 30 feet on the outside slip and asked how that was to be enforced. Mr. Gilmore explained that this was necessary to prevent any moored vessel from extending over the outer harborline and that it would be up to the applicant to stay in compliance. Councilmember Ekberg asked if it would be better to limit the width of the vessel as opposed to the length. Mr. Gilmore explained that due to the orientation of the outside slip, the length of a vessel could encroach upon the outer harborline, not the width. He then introduced the applicant's representative.

Wendell Stroud - PO Box 336, Tacoma. Mr. Stroud, representative for the project, answered Councilmember's questions regarding the regulation of the length of the vessel in the outside slip. He said that it would be easier to have the language in the agreement state that the end vessel was not to extend over the outer harborline rather than specifically limit the length of a vessel, but that the Department of Natural Resources had approved the permit as it was currently written, and that the language should stay as approved.

**MOTION:** Move we approve the Hearing Examiner's recommendations for approval of Shoreline Development Permit 95-02 for Pleasurecraft Marina.  
Markovich/Picinich - unanimously approved.

4. Ordinance Amending GHMC 13.34 Relating to Water & Sewer Extension. Mark Hoppen introduced this ordinance to allow utility extensions outside the city's urban boundary under emergency conditions. Councilmember Markovich questioned why the ordinance was written to only allow municipal or quasi-municipal corporations to apply, possibly eliminating the opportunity for the Purdy Shopping Center to obtain sewer service. Mr. Hoppen explained that he fully expected Pierce County to include the Purdy area into the city's urban growth area, eliminating the need for emergency extensions in this area which is already linked to city sewer service. He noted that the emergency extensions provision



is complementary to existing and future service areas planned under the city water and sewer comprehensive plans.

**MOTION:** Move approval of Ordinance 697 to allow for emergency utility extensions outside the city's urban boundary with corrections errors as follows: Section 13.34.010 paragraph 'B', changing the word "form" to "from;" and in Section 13.34.070 paragraph 'B', changing the work "financial" to "financially."  
Markovich/Owel - unanimously approved.

5. Fire District #5 Emergency Operation Center - Request for Water. Mark Hoppen presented the request from the Fire District to extend a water line service from the existing line adjacent to the Purdy Women's Correction Center to the Emergency Operations Center on Bujacich Road to satisfy their fireflow requirements. He explained that the District would install the line, and then ownership would be turned over to the city upon completion, with no constructino or other costs to be incurred by the city. Mr. Hoppen introduced Glen Stenbak to answer questions.

Glen Stenbak - Fire District #5. Mr. Stenbak said that the Fire District planned on using approximately 320,000 gallons per year during training maneuvers. He added that the on-site domestic flow could not adequately support this usage. He explained the Fire District would pay for the cost of installing the line, and permits. He asked for a latecomer's agreement to be included with the contract to allow the Fire District to recoup some of its costs if others were allowed to connect to the line.

**MOTION:** Move we approve the extension of water to the Fire District consistent with the Fire District request and that Council request the City Attorney craft an agreement to accommodate that, with the inclusion of a Latecomer's Agreement.  
Markovich/Picinich - unanimously approved.

**MAYOR'S REPORT:**

None.

**STAFF REPORT:**

None.

**ANNOUNCEMENT OF OTHER MEETINGS:**

None.

**APPROVAL OF PAYROLL:**

**MOTION:** Move approval of warrants #11686 through #11814 in the amount of \$192,305.14.  
Picinich/Owel - unanimously approved.

**APPROVAL OF BILLS:**

**MOTION:** Move approval of warrants #14813 through #14879 in the amount of \$60,471.69.  
Picinich/Markovich- unanimously approved.

**EXECUTIVE SESSION:**

**MOTION:** Move to adjourn to Executive Session at 7:51 p.m. to discuss claims and property acquisition for approximately ten minutes.  
Picinich/Markovich - unanimously approved.

**MOTION:** Move to return to regular session at 7:58 p.m.  
Picinich/Owel - unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 8:00 p.m.  
Picinich/Ekberg - unanimously approved.

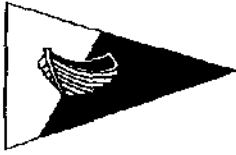
Cassette recorder utilized.  
Due to tape malfunction, this meeting was not recorded.

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Mayor Pro Tem

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City Administrator



City of Gig Harbor. The "Maritime City."  
3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**TO: MAYOR WILBERT, CITY COUNCIL**  
**FROM: MARK HOPPEN, CITY ADMINISTRATOR** *MH*  
**SUBJECT: VIACOM CABLE TV FRANCHISE "CHANGE OF CONTROL"**  
**DATE: OCTOBER 2, 1995**

### **INFORMATION/BACKGROUND**

In March of this year, I asked Legal Counsel to review the City's existing franchise with Viacom to determine whether or not a proposed change in ownership would affect the terms of that franchise. This was prompted by a proposed change in ownership of Viacom to a minority-owned company, RCS Pacific. On March 30, 1995, the Senate passed a bill eliminating the minority tax certificate program; the proposed sale subsequently did not take place; and no further action was necessary.

On August 4, 1995, Viacom wrote to the Mayor, providing official notice of Viacom's withdrawal of the Form 394 connected with the RCS Pacific transaction. In that letter, Viacom also stated its intent to transfer all of its non-cable assets to a new corporation, which "does not provide for a sale of assets, but is instead structured as a change of control of Viacom." (Emphasis added.) A new Form 394 was enclosed with that letter, because the "spin off and recapitalization may require [the City's] approval."

### **POLICY CONSIDERATIONS**

No identifiable consumer or franchisor outcomes are consequent to this transfer, other than the fact that TCI, the parent company of the transferee, is a larger company than Viacom.

### **FISCAL CONSIDERATIONS**

There is no apparent fiscal consequence to the City or city consumers as a result of this transaction.

### **RECOMMENDATION**

This is the second reading of the ordinance. The ordinance simply reflects the transfer. Some Viacom-recommended language has been excluded. Approving this transfer leaves a record; however, no action is required.

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

**ORDINANCE OF THE CITY OF GIG HARBOR APPROVING THE  
CHANGE OF CONTROL OF FRANCHISEE**

**WHEREAS**, Cable TV Puget Sound, Inc. d/b/a Viacom Cablevision ("Franchisee") is the duly authorized holder of a franchise (as amended to date, the "Franchise") authorizing the operation and maintenance of a cable television system (the "System") and authorizing Franchisee to serve The City of Gig Harbor (the "Franchise Authority") with cable television services; and

**WHEREAS**, Viacom International Inc., a Delaware corporation ("Viacom"), a wholly-owned subsidiary of Viacom Inc., ("VI") is an indirect parent of Franchisee; and

~~**WHEREAS**, VI, Viacom, Tele-Communications, Inc., a Delaware corporation ("TCI"), and TCI Communications, Inc., a Delaware corporation and wholly owned subsidiary of TCI ("TCIC"), are parties to some or all of the following: A Parents Agreement, an Implementation Agreement and a Subscription Agreement (the "Agreements"); and~~

**WHEREAS**, upon the consummation of the transactions contemplated by the ~~various~~ Agreements (the "Transactions"), TCIC will acquire all of the outstanding common stock of Viacom and become the indirect parent of Franchisee; and

**WHEREAS**, upon the consummation of the Transactions, the Franchisee will continue to directly own and operate the System; and

**WHEREAS**, Franchisee and TCIC have requested consent by the Franchise Authority to the Transactions; and

~~**WHEREAS**, the Transactions are deemed to be in the best interests of the residents of the City of Gig Harbor.~~

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF GIG HARBOR AS FOLLOWS:**

SECTION 1. The Franchise Authority hereby consents to and approves the Transactions, ~~all as~~ in accordance with the requirements of the Franchise.

~~SECTION 2. Any interest in Franchisee, or control related thereto, may be transferred to any entity controlled by, controlling or under common control with the current holder of such interest upon notice to the Franchise Authority of any such transfer.~~

~~SECTION 3. The Franchise Authority hereby consents to and approves the assignment, mortgage, pledge or other encumbrance, if any, of the Franchise, System or assets relating thereto, or of the interests in Franchisee, as collateral for a loan.~~

SECTION 4. The Franchise Authority confirms that, as of the date of this Resolution: (a) the Franchise was properly granted to Franchisee, is valid, remains in full force and effect and expires on December 11, 2004, subject to options, if any, to extend such term; (b) the Franchise supersedes all other agreements between Franchisee and the Franchise Authority and represents the entire understanding of the parties; and (c) Franchisee is materially in compliance with the provisions of the Franchise and there are no material unfulfilled commitments of Franchisee under the Franchise.

SECTION 5. This Ordinance shall be deemed effective as of the closing date of the Transactions.

**PASSED, ADOPTED AND APPROVED** by the City of Gig Harbor this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

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

ATTEST:

\_\_\_\_\_  
Mark Hoppen  
City Administrator/Clerk

APPROVED AS TO FORM:

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

Filed with city clerk: 10/2/95  
Passed by the city council:  
Date published:  
Date effective:

I, the undersigned, being the duly appointed, qualified and acting City Clerk of THE CITY OF GIG HARBOR hereby certify that the foregoing Ordinance No. \_\_\_\_\_ is a true, correct and accurate copy as duly and lawfully passed and adopted by THE CITY OF GIG HARBOR on the \_\_\_\_\_ day of \_\_\_\_\_, 1995.

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



City of Gig Harbor. The "Maritime City."  
3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: MARK HOPPEN, CITY ADMINISTRATOR** *MHS*  
**SUBJECT: FIRE DISTRICT EOC WATER REQUEST**  
**DATE: OCTOBER 13, 1995**

#### **INFORMATION/BACKGROUND**

Attached is the contract for extension of water to the Fire District EOC approved at the last Council Meeting. The contract in its current form has been approved by Fire District #5. Contract language, however, is subject to Council approval or amendment. If Council amends the contract it will be returned to the fire district for signature.

#### **POLICY CONSIDERATIONS**

This proposed extension benefits only the Fire District and the City, although the possibility exists subsequent to this extension for an emergency intertie with Harbor Water that would provide for an adjustment of water relative to City use of Harbor Water supply on Peacock Hill. Additionally, this extension advances the interests of the City's Comprehensive Water Plan. From Bujacich Road NW at the EOC site, water will be available as a practical service to the northern reaches of the City's planned water service area. This means that any development in the City's water service area north of this extension will be required to utilize City service, rather than some more readily available water from another urban water provider. Therefore, over time, the City would not be required to make downward adjustments in its planned service area and to make revisions to its Water Comprehensive plan.

#### **FISCAL CONSIDERATIONS**

Fully utilizing the City's planned water service area correlates directly with minimizing future City service rates.

#### **RECOMMENDATION**

Staff recommends that Council motion to approve the contract as reviewed by the City Attorney and signed by the Fire District.

**AGREEMENT FOR CONSTRUCTION OF WATER EXTENSION  
AND JOINT USE OF FACILITIES  
BETWEEN GIG HARBOR AND PIERCE COUNTY FIRE DISTRICT NO. 5**

THIS AGREEMENT is made and executed this \_\_\_\_\_ day of \_\_\_\_\_, 1995, between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Pierce County Fire District No. 5, a Washington municipal corporation (hereinafter the "District");

**WITNESSETH:**

WHEREAS, both parties are located in an area designated a Critical Water Supply Service Area under Chapter 70.166 RCW, the Public Water System Coordination Act (hereinafter the "Act"); and

WHEREAS, both parties have adopted coordinated water system plans in accordance with the Act; and

WHEREAS, the Act requires that all water purveyors constructing or proposing to construct water system facilities within an area covered by the Act must comply with their plans (RCW 70.166.060(3)(a)); and

WHEREAS, the District desires to construct a transmission main extension from the City's water system to its property at Emergency Operations Center on Bujacich Road NW in order to provide fire flow to its site; and

WHEREAS, the City agrees to allow construction of such extension under the terms and conditions of an agreement which apportions the cost of the extension, requires transfer of a portion of the newly constructed extension to the City, and also requires the District to replenish water usage from the City's system to the City in an equal amount from the District's Class "A" on-site system; and

WHEREAS, the parties further desire to enter into an agreement for the District's construction of water extension facilities from 96th Street / Bujacich Road Intersection to Station 5.8 Driveway / Bujacich Road Intersection, which will eventually be owned, maintained and operated by the City, and for the District's construction of water extension facilities from within the Fire District #5 site, will be owned, maintained and operated by the District; and

WHEREAS, the City's water system plan shows the area where the portion of the extension to be constructed and transferred to City ownership, or between 96th Street / Bujacich Road



Intersection to Station 5.8 Driveway / Bujacich Road Intersection as within the City's future water service area; and

WHEREAS, the District's water system plan shows the area where the portion of the extension to be constructed and retained in District ownership, or between 96th Street / Bujacich Road Intersection to Station 5.8 Driveway / Bujacich Road Intersection as within the District's existing water service area; and

WHEREAS, the City has revised its water system plan to show the area where the extension will be constructed between 96th Street / Bujacich Road Intersection to Station 5.8 Driveway / Bujacich Road Intersection as within its existing service area, and such plan has been approved by the Department of Health; and

WHEREAS, the City Council considered the proposed extension at its regular meeting of October 9, 1995, and pursuant to Ordinance No. \_\_\_\_\_, adding a new section 13.34.070 to the Gig Harbor Municipal Code, the Council determined that (1) the requested service, for fire flow only, is financially supportable at rural densities and does not permit urban development; (2) the extension is necessary to protect basic public health, safety and/or the environment; (3) the extension is consistent with the goals of the City's Comprehensive Water Plan; and (4) the applicant shall be responsible for the portion of the extension outside the City's Urban Growth Area, and shall after construction relinquish ownership of the portion of the extension within the City's Urban Growth Area to the City;

NOW, THEREFORE, in consideration of the mutual covenants contained herein it is hereby agreed as follows:

Section 1. Definition of Terms. Whenever the following terms are used in this Agreement, they shall have the following meaning unless specifically indicated otherwise from the context in which they appear:

A. "City's Facilities" shall mean those water extension facilities which are or will be owned, maintained or operated by the City as part of the City's water system, and are/will be shown on the City's Comprehensive Water System Plan.

B. "District's Facilities" shall mean those water extension facilities which are or will be owned, maintained or operated by the District as part of the District's water system, and are/will be shown on the District's Comprehensive Water System Plan.

C. "Construction Cost" shall, unless otherwise specified, mean the contract construction cost, sales tax, surveying, testing, engineering design and inspection costs, permit fees, road and property restoration costs, damage claim costs, legal costs, annual interest costs during the period of construction and direct overhead costs of the constructing agency attributable to the construction of the facility described, exclusive of any costs attributable to franchises, easements and rights-of-way.

Section 2. Construction of Extension.

A. **City's Costs.** The City and the District agree that the City shall provide and install a twelve inch valve on the existing water main at the intersection of 96th Street/Bujacich Road NW. The City shall provide an 8" turbine meter for installation by the District at the intersection of Station 5.8 Driveway and Bujacich Road NW.

B. **District's Costs.** The City and District agree that the District shall bear all construction costs relating to the extension from 96th Street / Bujacich Road Intersection to Station 5.8 Driveway / Bujacich Road Intersection. This will include the construction and installation of approximately five thousand (5,000) linear feet of twelve (12) inch diameter C-900 class 150 water main with isolation valves installed each one thousand (1,000) feet and terminating with a valve and blow-off assembly. The District will pay all Pierce County permit fees.

C. **Competitive Bidding and Construction.** In the construction of this extension, which includes advertisement for competitive bids, bid consideration and contract award, the District acknowledges that it must observe the legal requirements for competitive bidding of public works contracts, as the same apply to both the District and the City.

D. **Plans, Inspections, and Testing.** Plans for the complete extension shall be reviewed and approved by the City. The City shall also furnish an inspector for the construction of the complete extension, in order to confirm compliance with the City's standards and the approved plans. Any costs incurred by the City related to such inspections and testing shall be borne by the City.

E. **Construction.** The District shall communicate with the City during the course of construction, and report its progress. Although the District will have control over completion of the work described in the approved plans, the District acknowledges that the City may refuse to accept dedication of any construction which does not comply with the approved plans or standards.

F. **Dedication.** The District shall notify the City upon completion of construction of the entire extension, and of the District's intent to dedicate the City's facilities to the City. The City shall have a final opportunity to inspect the construction, and if the water line is constructed in conformance with the approved plans and City standards, the City shall accept ownership of the portion of the extension from 96th Street / Bujacich Road Intersection to Station 5.8 Driveway / Bujacich Road Intersection. The District shall require its contractor to execute the City's maintenance bond forms for the City's facilities, and the bond shall be written to allow the City to make claims under the bond for a two year period after completion of construction, to the same extent and in the same manner as the District.

Section 3. District's Replenishment of City Water. The extension will be constructed for the purpose of providing fire flow to the District only, in an amount of approximately 320,000 gallons per year. The District agrees to replenish the water used by the District to the City, upon demand of the City.

Section 4. Insurance. The District shall secure and maintain adequate insurance for the construction, maintenance and operation of the extension, against loss or damage, or injuries to persons or property, during the period of time prior to the City's acceptance of the City's facilities. Any liability incurred as a result of the operation of the District of the extension prior to the time of acceptance by the City shall be the sole liability of the District.

Section 5. Assignment. The District shall not have the right to assign this Agreement or any of its rights and obligations hereunder either by operation of law or by voluntary agreement, without the written consent of the City, and neither party may terminate its obligations hereunder by termination of this Agreement without obtaining the written consent of the other party.

Section 6. Effective Date. This Agreement shall be in full force and effect and binding upon the parties hereto upon execution of this Agreement.

Section 7. Dept. of Health Approval. This agreement shall be null and void if the Dept. of Health does not approve the revision of the parties service area agreement, and such approval is required for construction of the extension.

Section 8. Notice. Notice to the parties shall be given at the following addresses:

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

Fire District No. 5  
6711 Kimball Drive  
Gig Harbor, WA 98335

Section 9. Waiver. No waiver by either party of any term or condition of this agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach.

Section 10. Indemnification. The District hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, officials, employees, agents and representatives from any and all claims, costs, judgments, losses or suits including attorney's fees, awards or liabilities to any person, including claims by the District's own employees to which the District might otherwise be immune under Title 51 RCW, arising out of or in connection with the performance of this contract, except for injuries and damages caused by the sole negligence of the City. The District shall also release, covenants not to bring suit and agree to indemnify, defend and hold harmless the City, its officers, officials, employees and agents from any damages, losses, costs, fees, penalties or liabilities of any kind arising out of the District's failure to comply or its inadequate compliance with the State Environmental Policy Act, (chapter 43.21C RCW) or any laws relating to the construction of public works, including but not limited to, laws relating to competitive bidding and payment of prevailing wages. Such indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

The City's inspection or acceptance of the District's work when completed shall not be grounds to avoid any of these covenants of indemnification. It is further specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Title 51 RCW, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the parties.

No agent, employee, representative or subcontractor of the District shall be or shall be deemed to be the employee, agent, representative or subcontractor of the City. None of the benefits that the City provides to its employees, including, but not limited to, compensation, insurance, unemployment insurance, are available from the City to the employees, agents, representatives or subcontractors of the District. The District will be solely and entirely responsible for its acts and for the acts of the District's agents, employees, representatives and subcontractors during the performance of this Agreement.

Section 11. Latecomers Agreement. Pursuant to chapter 35.91 RCW, the City will contract with the District for the District's reimbursement of its costs of construction of the water extension to be constructed as described in this agreement, from the owners of real estate who did not contribute to the original cost of the extension, and who subsequently tap into the same.

Section 12. Complete Agreement. This agreement merges and supersedes all prior negotiations, representations, and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire contract between the parties.

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

**CITY OF GIG HARBOR:**

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

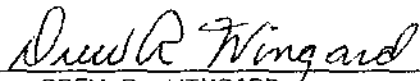
ATTEST:

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

Approved as to Form:

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

**FIRE DISTRICT NO. 5:**

  
\_\_\_\_\_  
By DREW R. WINGARD  
Its FIRE CHIEF



City of Gig Harbor. The "Maritime City."  
3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**TO:** MAYOR WILBERT AND CITY COUNCIL  
**FROM:** Ray Gilmore, Planning Staff  
**DATE:** October 17, 1995  
**SUBJ.:** Proposed Land Use Development Codes - First Reading of Ordinances

### **BACKGROUND**

As part of the City's obligation under the Growth Management, we are required to update our land use regulations so that they are consistent with the Comprehensive Plan. Five of the ordinances presented for your consideration reflect the Planning Commission and staff's recommendation in meeting our GMA obligation. Aside from the GMA, recent adoption of the State Regulatory Reform Act mandates that local governments planning under GMA must also develop administrative procedures which implement the new state law. In addition to the five ordinances mentioned, staff proposes two new ordinances (Administrative Procedures and Office of the Hearings Examiner) which implement the requirements of the regulatory reform act.

### **POLICY CONSIDERATIONS**

The proposed ordinances represent policy changes in several operations of the City's land use standards and administrative functions.

#### Title 17 - Zoning Code

The Planning Commission has recommended several changes to the code and these are summarized in the attachment. The changes proposed to the zoning code represent not only implementation of the updated comprehensive plan, but also incorporate several changes which the Planning Commission considers important in preserving community values related to mass and scale of buildings. This is most evident in several sections which propose limits on the mass of buildings by imposing maximum floor areas. Several of the changes also increase the flexibility of land owners to develop residential property by minimizing development constraints associated with lot size or area. The intent is to promote residential site design while meeting the basic density standards adopted under the Comprehensive Plan of 1994. Chapter 17.10 (Hearing Examiner) has been substantially updated.

Staff proposes an addition to Chapter 17.100. Currently, requests for rezones are processed as an application. The Growth Management Act has been amended to require that local governments *establish and broadly disseminate to the public a public participation program identifying procedures for early and continuous public participation in the development and amendments of comprehensive land use plans and development regulations implementing*

*such plans.* To meet this broad objective, staff is proposing a process which allows for citizens to suggest refinements or amendments to the zoning code on an annual basis without the costs or formality of an application.

Also included as zoning code updates are two new zoning districts (which will be included as part of our map update in 1996) and a new section establishing Special Use Permits.

#### New Title 19 - Administrative Procedures

Respective to regulatory reform, several changes are proposed which alter the permitting procedures within the city. Although some of these processes are currently utilized, the time requirements and the methods for accomplishing these objectives are changed under the new state law. The most notable examples include the application and notification requirements, public notice procedures and the limits on public hearings. Staff is also proposing the establishment of a five-tier review procedure which is based upon the type of application filed. The role of the hearing examiner is expanded so that all hearings conducted by the examiner are final unless appealed to the city council. Specifically, the act: (1) provides for the integrated and consolidated review and decision on two or more project permits relating to a proposed action; (2) combines the environmental review process, both procedural and substantive, with the procedure for the review of project permits; (3) provides for no more than one open record hearing and one closed record appeal on such permits, except for the appeal of a determination of significance; and (4) provides for the issuance of the City's final decision within 120 days after submission of a complete application.

A section on land-use "takings" is offered for Council's consideration. Primarily a response to Initiative 164 (on the ballot as Referendum 48), should it take effect, an ordinance must be in place which establishes a administrative review process for any "takings-claims" which might arise.

#### Title 16 - Subdivision Code

The new subdivision code (Title 16) represents updates which include requirements of GMA (affordable housing), State Subdivision Act (RCW 58.17) and the Regulatory Reform Act of 1995. Application requirements have been updated and include criteria for what constitutes a complete application. Also included is a new section which establishes minimum standards for mobile/manufactured home parks and subdivisions (Chapter 16.10)

#### **FISCAL IMPACT**

All of the ordinances will have a direct effect on the department's budget and, cumulatively, will most likely require an increase in resources. Administrative procedures will need to be expanded in order to comply with the Regulatory Reform act. Should Referendum 48 be passed by the voters, the fiscal impact could be substantial if the department is required to conduct an economic impact analysis for each regulation or "restraint" (permit?) on the use of private property. Although some costs can be recovered through fee schedule adjustments, the city is prohibited under Referendum 48 from passing costs on to developers where special

studies, plans, maps or reports are required.

**RECOMMENDATION**

This is the first reading of the ordinances. Final action by Council is anticipated at the second reading, scheduled for November 13. Adjustments as deemed appropriate by Council may be considered at the second reading.

**City of Gig Harbor Planning Commission**  
**Resolution # 2 of 1995**

A RESOLUTION OF THE CITY OF GIG HARBOR PLANNING COMMISSION RECOMMENDING ADOPTION BY THE GIG HARBOR CITY COUNCIL REVISIONS TO THE CITY OF GIG HARBOR ZONING CODE, TITLE 17 OF THE GIG HARBOR MUNICIPAL CODE.

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WHEREAS, the recently updated City of Gig Harbor Comprehensive Plan (November 1994) provides several policy amendments respective to land use, inclusive of density and housing; and,

WHEREAS, the Growth Management Act requires that development regulations be adopted by local governments to conform with new or amended comprehensive plans; and,

WHEREAS, the City Planning Commission established a sub-committee of two planning commission members and planning staff to review the zoning code and develop amendments to the code; and,

WHEREAS, the sub-committee, over a period of two months, developed a revised and updated zoning code; and,

WHEREAS, the Planning Commission considered the subcommittee's proposed changes at two public meeting worksessions and made adjustments as deemed appropriate; and,

WHEREAS, the Planning Commission conducted a public hearing on August 3, 1995, to accept public comment and testimony on the proposed changes, following public notice; and,

WHEREAS, at a worksession on August 17 and September 12, 1995, the Planning Commission made several changes to the proposed zoning code, based upon testimony received at the August 3 hearing and the independent review and analysis of the Planning Commission; and,

WHEREAS, the Planning Commission proposes several changes to the zoning code which regulate the mass and scale of non-residential buildings in four zoning districts as a partial implementation of the Community Design Element of the plan; and,

WHEREAS, two new districts consisting of an Employment District and a Public Institutional District are proposed to implement the Land Use and Essential Facilities elements of the Comprehensive Plan; and,



WHEREAS, the height of buildings allowable in the Employment District was a subject of discussion by the Planning Commission at its September 12 meeting and it was agreed that the height proposed would remain unchanged; and,

WHEREAS, changes are proposed to the off-street parking standards in the downtown area to accommodate parking for uses within existing buildings; and,

WHEREAS, the revised and updated zoning code is consistent with Washington State law respective to child day care facilities and group home; and,

WHEREAS, a new section is added to the zoning code respective to zoning code violations and enforcement which places all of the enforcement provisions in Title 17 of the GHMC; and,

WHEREAS, numerous housekeeping changes are made to the code in order to refine and clarify existing definitions, language and performance standards.

NOW, THEREFORE BE IT RESOLVED by the City of Gig Harbor Planning Commission that the Gig Harbor City Council adopt the proposed changes to the City of Gig Harbor Zoning Code referenced as EXHIBIT "A", attached, as recommended by the City of Gig Harbor Planning Commission.

PASSED this 12th day of September, 1995, by the City of Gig Harbor Planning Commission of those present at its regular meeting.

  
\_\_\_\_\_  
Carl Halsan, Chairman

Date SEPTEMBER 13, 1995.





City of Gig Harbor. The "Maritime City."

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PASSED this 12th day of September, 1995, by the City of Gig Harbor Planning Commission of those present at its regular meeting.

  
\_\_\_\_\_  
Carl Halsan, Chairman

Date SEPTEMBER 13, 1995.



## Summary of Proposed Changes to the City Zoning Code Title 17 of the GHMC

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### Section 17.01 General Provisions

Two new subsections are added: 17.01.085 and 17.01.100. These were originally in Section 17.08 (which is proposed for deletion). Section 17.01.100 has been amended to clarify what constitutes portable office and construction trailer and the parameters for the use of these structures. The public notice section has been amended to include shoreline permits.

### Section 17.04- Definitions

New definitions:

17.04.025	Adult family homes
17.04.365	Floor area ratio
17.04.555	Ministorage(formerly miniwarehousing)
17.04.680	Professional Office (formerly "Profession")
17.04.692	Recreational, outdoor
17.04.693	Recreational, building
17.04.695	Recreational vehicle
17.04.704	Retail sales
17.04.706	Wholesale sales
17.04.865	Warehousing (to distinguish it from ministorage)

Revised definitions:

.264	Day care has been amended to comply with state law. It permits a maximum of 12 children per residence (as opposed to the old limit of 6 per residence).
.330	Family has been amended to delete the maximum number of persons within a dwelling unit (current definition violates the federal Fair Housing Act)
.360	Floor area has been expanded to include minimum floor area per unit per person (as a means of managing the number of occupants of a dwelling - see above).
.630	Day nursery amended to include facilities with more than 12 children.
.680	Defines professional office.
.765	Deleted (defaults to standards in the Public Works Standards for roads).

### Section 17.08 Administration - Construction and Enforcement

Delete and replace with new **Section 17.08, Enforcement**. New section places all violation and enforcement provisions in Section 17. Currently, enforcement procedures are in Title 15, 16 and 17 of the GHMC.

**Section 17.10 Hearing Examiner**

The most significant revision involves the change in the hearing examiner process. The revised section renders all hearing examiner decisions as final, except for shoreline management permits. All of the hearing examiner's decisions are appealable to the city council. The current code requires all hearing examiner decisions to be approved by the city council, with the exception of variances, conditional uses and appeals of administrative decisions. This chapter is also revised to reflect recent changes under state law pertinent to regulatory reform.

**Section 17.12 District Established**

The General Business district is renamed Neighborhood Commercial. The Westside Commercial district is deleted.

**Section 17.15 Public-Institutional (New District)**

New section establishes a new zoning district for public facilities. Intent is to apply this designation to established public facilities and proposed public facility sites.

**Section 17.16 Single Family Residential District**

Delete agricultural uses as a permitted use. Add adult family homes as a permitted use. Amend family day-care standard from 6 to 12 children. Permit manufactured homes in approved manufactured housing subdivision or parks. Permit home occupations. Amend conditional uses to include tele-communication transmission and relay facilities. Delete home occupation as a conditional use. Delete, under prohibited use, the "storage of mobile homes" and replace with "unoccupied manufactured homes or storage containers." Amend development standards to eliminate the minimum lot size in favor of a maximum density for new developments in subdivisions of five or more lots. Add a height option section which permits a maximum height of 24 feet with reduced setbacks and visual corridors for single family dwellings.

**Section 17.20 Single Family/Duplex District**

Same changes as described in R-1 district.

**Section 17.24 Multifamily Residential District**

Same changes as described in R-1 district.

**Section 17.28 Residential-Business Low Intensity Business District (RB-1)**

Clarify one of the permitted uses to read "Professional offices and personal services". Specify maximum density of 3 dwelling units per acre. Eliminate sections on the allowed number of principal structures and undersized lots of record (these are addressed under provisions of the subdivision codes and other sections of the zoning code). Limit non-residential structures to 5,000 square feet of gross floor area per parcel or lot.

**Section 17.30 Residential-Business High Intensity Business District (RB-2)**

Delete day care centers as a permitted use. Delete supplemental standards section and replace

with a General Performance Standards section.

**Section 17.31 Downtown Business District (DB)**

Amend section on height to conform to amended height restriction area. Add a new standard for the outdoor display of merchandise and defers to Title 12.02 on the use of public sidewalks and rights-of-ways.

**Section 17.32 Neighborhood Commercial (B-1)**

Amended to limit size of stores to 5,000 square feet maximum area and to allow residential uses, subordinate to the principal commercial use. Delete from permitted uses storage of wheeled vehicles, light manufacturing, bowling alleys and restaurants and cocktail lounges. Add, as a permitted use, residential uses located above the ground floor of a commercial use. Establish a maximum size of the district area to 3 acres.

**Section 17.36 General Retail Business (B-2)**

Add a new standard for the outdoor display of merchandise and defers to Title 12.02 on the use of public sidewalks and rights-of-ways. Limit structures to 35,000 square feet of gross floor area per lot or parcel.

**Section 17.40 Commercial District (C-1)**

Include child day care facilities as a permitted use. Delete the conditional use requirement for day nursery schools. Specify a maximum residential density of 7 dwelling units per acre. Limit structures to 65,000 square feet of gross floor area per lot or parcel.

**Section 17.45 Employment District (ED) - New District**

A new section to the zoning code which establishes permitted and conditional uses for employment based uses. ED district would apply to non-retail uses associated with manufacturing, production and assembly and would be limited geographically to those areas on the comprehensive plan map identified as "Employment-Business".

**Section 17.46 Waterfront Residential District (WR)**

Amend performance standards to simplify the current table of standards. Eliminate minimum lot size requirement in favor of a maximum density for new developments.

**Section 17.48 Waterfront Millville District (WM)**

Amend performance standards to simplify the current table of standards. Minimum lot area for residential is changed from 12,000 square feet to 6,000 square feet per unit. Limit non-residential structures to 3,500 square feet of gross floor area per lot or parcel. Increased height option is clarified to limit height increase of up to 24 feet to one structure for every two amenities provided.

**Section 17.50 Waterfront Commercial District (WC)**

Amend performance standards to simplify the current table of standards. Minimum lot area for residential is changed from 12,000 square feet to 6,000 square feet per unit.

**Section 17.58 Westside Commercial District (WSC)**

Proposed to be deleted.

**Section 17.62 Height Overlay District**

Amend maximum height standard to 16 feet for all structures. Establish criteria for amending the height overlay map. NOTE: AMENDING THE HEIGHT OVERLAY DISTRICT SECTION AND MAP AS PROPOSED RETAINS THE MAXIMUM 16 FOOT HEIGHT IN THE HARBOR VIEW BASIN. THE MAXIMUM HEIGHT OUTSIDE OF THE BASIN FOR ALL STRUCTURES WOULD BE 35 FEET (Currently, it's 25 feet maximum for single family dwelling, while all others are limited to 35 feet). ESSENTIALLY, THIS AMENDMENT CHANGES THE ADMINISTRATIVE PROCESS OF THE HEIGHT OVERLAY DISTRICT).

**Section 17.65 Special Use Permits (NEW SECTION)**

A new section which establishes an administrative process for reviewing and permitting temporary uses and special events of a limited duration.

**Section 17.66 Variances**

Establish separate criteria for the granting of administrative variances.

**Section 17.68 Nonconformities**

Amend section on altering of nonconforming structures to not allow increases in a nonconforming structure if it increases the nonconformity, respective to bulk or dimensional standards..

**Section 17.72 Off-Street Parking and Loading**

Establish new criteria for drive-thru car washes and lube service facilities. Establish new section on the joint use of parking spaces in the Downtown Business and Waterfront Commerical Districts and a new section on parking for lots with existing buildings in the Downtown Business District..

**Section 17.78 Landscaping**

Redefine applicability to uses of land which require site plan review. Redefine requirements for commercial uses to include a total area equivalent of the required yards (intent is to keep required landscaping area equal to the area of the required yards, regardless of curb-cuts or on-site utility installations). Clarify screening-buffering adjacent to SR-16 to include the Tacoma Light Transmission Line right-of-way.

**Section 17.84.030 Home Occupations**

Revise standards to limit home occupations to the principle dwelling unit, prohibit point of purchase sales and signs. Limit home occupation to the residents of the structure.

**Section 17.89 Planned Residential District**

Expand allowed units to include up to a 4-unit attached structure in an R-1 district. Eliminate the requirement that PRD's be processed as an overlay to the zoning district map. Amend procedure to be consistent with Section 17.01 (hearing examiner review process).

**Section 17.90 Planned Unit Developments**

Clarify intent section. Amend requirements to require private streets be built to city Public Works Standards unless certain criteria are met. Revise review and approval procedures to be consistent with Section 17.01. Include criteria for minor and major amendments (same as PRD).

**Section 17.94 Land Clearing (NEW)**

Formerly Section 16.44 (of the subdivision code), it is relocated to the zoning code.

**Section 17.96 Site Plans**

Minor changes on contents of application and amendment procedures.

**Section 17.100 Amendments**

Revise procedures on amendments to zoning district map to require review and recommendation by the planning commission. Delete section on hearing examiner review of rezones.

**Section 17.102 Enforcement**

Proposed for deletion (enforcement provisions will be in New Section 17.08, Enforcement).

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

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO LAND USE STANDARDS AND ZONING CODE ENFORCEMENT, REPEALING SECTIONS, 16.44, 17.08, 17.58 AND SECTION 17.102 OF THE GIG HARBOR MUNICIPAL CODE; ADDING A NEW CHAPTER 17.08 ON ENFORCEMENT, VIOLATIONS AND PENALTIES TO THE CITY'S ZONING CODE; ADDING NEW SECTION 17.94 (LAND CLEARING); MAKING REVISIONS TO SECTION 17.01, 17.04, 17.12, 17.16, 17.20, 17.24, 17.28, 17.30, 17.32, 17.36, 17.40, 17.46, 17.48, 17.50, 17.62, 17.66, 17.68, 17.72, 17.78, 17.84, 17.88, 17.89, 17.90, 17.96; and 17.100; MAKING MINOR CLEAN-UP AMENDMENTS TO DELETE REFERENCES TO ZONING CODE ENFORCEMENT FROM CHAPTER 15.18; AMENDING SECTIONS 15.18.002, 15.18.004, 15.18.006, 15.18.012, 15.18.016, 15.18.018 AND THE TITLE OF CHAPTER 17.08

WHEREAS, the Growth Management Act requires that local government planning under the act must adopt development regulations which implement comprehensive plans;

WHEREAS, the current zoning code, which was last updated in 1991, is in need of refinement to reflect current state law;

WHEREAS, updating the zoning code is in the public's health, interest, welfare and safety as it implements the goals and policies of the amended City of Gig Harbor Comprehensive Plan of November, 1994;

WHEREAS, there are many policy areas relevant to administrative procedures which should be amended to increase the efficiency of land use permit processing within the city;

WHEREAS, the City's Zoning Code has been enforced in the past through the Building and Fire Code enforcement procedures, as set forth in Chapter 15.18; and

WHEREAS, the City desires to continue to enforce the Zoning Code, but to place responsibility for its enforcement with the same department responsible for its administration; Now, Therefore,

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

Section 1. Section 15.18.002 of the Gig Harbor Municipal Code, as last amended by Ordinance No. 672, is hereby amended to read as follows:

**15.18.002 Violations.**

\* \* \*

G. ~~Zoning Code Violation.~~

~~1. It is a violation of Title 17 for any person to initiate, maintain or cause to be initiated or maintained the use of any structure, land or property within the City of Gig Harbor without first obtaining the permits or authorizations required for the use by Title 17.~~

~~2. It is a violation of Title 17 for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the City of Gig Harbor in any manner that is not permitted by the terms of any permit or authorization issued pursuant to Title 17, provided that the terms or conditions are explicitly stated on the permit or the approved plans.~~

HG. Additional Violations. In addition to the above, it is a violation of Title 15 ~~or 17~~ to:

1. remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter;

2. to misrepresent any material fact in any application, plans or other information submitted to obtain any building or construction application.

3. fail to comply with any of the requirements of Title 15, ~~or 17~~ including any requirement of the Uniform Codes and state codes adopted by reference herein.

Section 2. Section 15.18.004 of the Gig Harbor Municipal Code, as last amended by Ordinance No. 672, is hereby amended to read as follows:

**15.18.004 Duty to Enforce.**

\* \* \*

B. Upon presentation of proper credentials, the Building Official may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant, in order to perform the duties imposed by Title 15 ~~or 17~~.

\* \* \*

E. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of Title 15 ~~or 17~~.

\* \* \*

Section 3. Section 15.18.006 of the Gig Harbor Municipal Code, as last amended by Ordinance 672, is hereby amended to read as follows:

**15.18.006 Investigation and notice of violation.**

A. Investigation. The Building Official shall investigate any structure or use which the Building Official reasonably believes does not comply with the standards and requirements of Title 15 ~~or 17~~.

B. Notice of Violation. If after investigation, the Building Official determines that the standards or requirements of Title 15 ~~or 17~~ have been violated, the Building Official shall serve a notice of violation upon the owner, tenant or other person responsible for the condition. The notice of violation shall contain the following information:

1. A separate statement of each standard, code provision or requirement violated;
2. What corrective action, if any, is necessary to comply with the standards, code provision or requirements;
3. A reasonable time for compliance;
4. A statement that if the violation is not already subject to criminal prosecution, that any subsequent violations may result in criminal prosecution as provided in Section 15.18.018.

\* \* \*

Section 4. Section 15.18.012 of the Gig Harbor Municipal Code, as last amended by Ordinance No. 672, is hereby amended to read as follows:

~~17.09.012~~ **15.18.012 Emergency Order.** Whenever any use or activity in violation of Title 15 ~~or 17~~ threatens the health and safety of the occupants of the premises or any member of the public, the



Building Official may issue an Emergency Order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The Emergency Order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an Emergency Order shall constitute a violation of this chapter.

Any condition described in the Emergency Order which is not corrected within the time specified is hereby declared to be a public nuisance and the Building Official is authorized to abate such nuisance summarily by such means as may be available. The cost of such abatement shall be recovered from the owner or person responsible or both in the manner provided by law.

Section 5. Section 15.18.016 of the Gig Harbor Municipal Code, as last amended by Ordinance No. 672, is hereby amended to read as follows:

**15.18.016 Civil Penalty.**

A. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of Title 15 ~~or 17~~ shall be subject to a cumulative penalty in the amount of Fifty Dollars (\$50.00) per day for each violation from the date set for compliance until compliance with the order is achieved.

\* \* \*

Section 6. Section 15.18.018 of the Gig Harbor Municipal Code, as last amended by Ordinance No. 672, is hereby amended to read as follows:

**15.18.018 Criminal Penalties.**

A. Any person violating or failing to comply with any of the provisions of Title 15 ~~or 17~~ and who has had a judgment entered against him or her pursuant to Section 15.18.016 or its predecessors within the past five (5) years shall be subject to criminal prosecution and upon conviction of a subsequent violation shall be fined in a sum not exceeding Five Thousand Dollars (\$5,000.00) or be imprisoned for a term not exceeding one (1) year or be both fined and imprisoned. Each day of noncompliance with any of the provisions of Title 15 ~~or 17~~ shall constitute a separate offense.

B. The above criminal penalty may also be imposed:

1. For any other violation of Title 15 ~~or 17~~ for which corrective action is not possible; and

2. For any wilful, intentional, or bad faith failure or refusal to comply with the standards or requirements of Title 15 ~~or 17~~.

\* \* \*

Section 7. Section 15.18.020 of the Gig Harbor Municipal Code, as last amended by Ordinance No. 672, is hereby amended to read as follows:

**15.18.020 Additional Relief.** The Building Official may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of Title 15 ~~or 17~~ when civil or criminal penalties are inadequate to effect compliance.

Section 8. Section 16.44 is hereby repealed.

Section 9. Section 17.58 is hereby repealed.

Section 10. Section 17.08 of the Gig Harbor Municipal Code is hereby repealed.

Section 11. The title of chapter 17.08 of the Gig Harbor Municipal Code shall be amended to read as follows:

**CHAPTER 17.08  
ENFORCEMENT**

**Sections:**

<b>17.08.002</b>	<b>Violations</b>
<b>17.08.004</b>	<b>Duty to Enforce</b>
<b>17.08.006</b>	<b>Investigation and Notice of Violation</b>
<b>17.08.008</b>	<b>Time to Comply</b>
<b>17.08.010</b>	<b>Stop Work Order</b>
<b>17.08.012</b>	<b>Emergency Order</b>
<b>17.08.014</b>	<b>Review by Director</b>
<b>17.08.016</b>	<b>Extension of Compliance Date</b>
<b>17.08.018</b>	<b>Civil Penalty</b>
<b>17.08.020</b>	<b>Criminal Penalties</b>
<b>17.08.022</b>	<b>Additional relief</b>

**17.08.002 Violations.**

A. It is a violation of Title 17 for any person to initiate, maintain or cause to be initiated or maintained the use of any structure, land or property within the City of Gig Harbor without first obtaining the permits or authorizations required for the use by Title 17.

B. It is a violation of Title 17 for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the City of Gig Harbor in any manner that is not permitted by the terms of any permit or authorization issued pursuant to Title 17, provided that the terms or conditions are explicitly stated on the permit or the approved plans.

C. In addition to the above, it is a violation of Title 17 to:

1. remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter;
2. to misrepresent any material fact in any application, plans or other information submitted to obtain any building or construction authorization.
3. fail to comply with any of the requirements of Title 17.

#### **17.08.004 Duty to Enforce.**

A. It shall be the duty of the Planning Director to enforce this Chapter. The Planning Director may call upon the police, fire, building, public works or other appropriate City departments to assist in enforcement. As used in this chapter, "Planning Director" shall also mean his or her duly authorized representative.

B. Upon presentation of proper credentials, the Planning Director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant, in order to perform the duties imposed by Title 17.

C. This chapter shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

D. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of Title 17.

E. No provision of or any term used in this chapter is intended to impose any duty upon the City or any of its officers or employees which would subject them to damages in a civil action.

**17.08.006 Investigation and notice of violation.**

A. Investigation. The Planning Director shall investigate any structure or use which the Planning Director reasonably believes does not comply with the standards and requirements of Title 17.

B. Notice of Violation. If after investigation, the Planning Director determines that the standards or requirements of Title 17 have been violated, the Planning Director shall serve a notice of violation upon the owner, tenant or other person responsible for the condition. The notice of violation shall contain the following information:

1. A separate statement of each standard, code provision or requirement violated;
2. What corrective action, if any, is necessary to comply with the standards, code provision or requirements;
3. A reasonable time for compliance;
4. A statement that if the violation is not already subject to criminal prosecution, that any subsequent violations may result in criminal prosecution as provided in Section 17.08.018.

C. Service. The notice shall be served on the owner, tenant or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person(s) is unknown or service cannot be accomplished and the Planning Director makes an affidavit to that effect, then service of the notice upon such person(s) may be made by:

1. Publishing the notice once each week for two (2) consecutive weeks in the City's Official Newspaper; and
2. Mailing a copy of the notice to each person named on the notice of violation by first class mail to the last known address if known, or if unknown, to the address of the property involved in the proceedings.

D. Posting. A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

E. Other Actions May Be Taken. Nothing in this section shall be deemed to limit or preclude any action or proceeding pursuant to Sections 17.08.010, 17.08.012, 17.08.018 or 17.08.020.

F. Optional Notice to Others. The Planning Director may mail, or cause to be delivered to all residential and/or nonresidential rental units in the structure or post at a conspicuous place on the property, a notice which informs each recipient or resident about the notice of violation, Stop Work Order or Emergency Order and the applicable requirements and procedures.

G. Amendment. A notice or Order may be amended at any time in order to:

1. Correct clerical errors; or
2. Cite additional authority for a stated violation.

#### **17.08.008 Time to Comply.**

A. Determination of Time. When calculating a reasonable time for compliance, the Planning Director shall consider the following criteria;

1. The type and degree of violation cited in the notice;
2. The stated intent, if any, of a responsible party to take steps to comply;
3. The procedural requirements for obtaining a permit to carry out corrective action.
4. The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and
5. Any other circumstances beyond the control of the responsible party.

B. Order Becomes Final Unless Appealed. Unless an appeal is filed with the Planning Director for hearing before the Hearing Examiner in accordance with Section 17.08.014, the notice of violation shall become the final order of the

Planning Director. A copy of the notice shall be filed with the Pierce County Auditor. The Planning Director may choose not to file a copy of the notice or order if the notice or order is directed only to a responsible person other than the owner of the property.

**17.08.010 Stop Work Order.** Whenever a continuing violation of this Code will materially impair the Planning Director's ability to secure compliance with this Code, or when the continuing violation threatens the health or safety of the public, the Planning Director shall issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site. A failure to comply with a Stop Work Order shall constitute a violation of this chapter.

**17.08.012 Emergency Order.** Whenever any use or activity in violation of Title 17 threatens the health and safety of the occupants of the premises or any member of the public, the Planning Director may issue an Emergency Order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The Emergency Order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an Emergency Order shall constitute a violation of this chapter.

Any condition described in the Emergency Order which is not corrected within the time specified is hereby declared to be a public nuisance and the Planning Director is authorized to abate such nuisance summarily by such means as may be available. The cost of such abatement shall be recovered from the owner or person responsible or both in the manner provided by law.

**17.08.014 Review by Hearing Examiner.**

A. Any person significantly affected by or interested in a notice of violation issued by the Planning Director pursuant to Section 17.08.006 may obtain an appeal of the notice by requesting such appeal within fifteen calendar (15) days after service of the notice. When the last day of the period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until five p.m. (5:00 p.m.) on the next business day. The request shall be in writing, and upon receipt of the appeal request, the Planning Director shall forward the request to the Office of the Hearing Examiner, pursuant to Chapter 17.10 GHMC.

B. At or after the appeal hearing, the Hearing Examiner may:

1. Sustain the notice of violation,
2. Withdraw the notice of violation;

3. Continue the review to a date certain for receipt of additional information;

4. Modify the notice of violation, which may include an extension of the compliance date.

C. The Hearing Examiner shall issue a Decision within ten (10) days of the date of the completion of the review and shall cause the same to be mailed by regular first class mail to the person(s) named on the notice of violation, mailed to the complainant, if possible, and filed with the Pierce County Auditor.

D. The decision of the Hearing Examiner shall be final and conclusive. In order to appeal the decision of the Hearing Examiner, an aggrieved party or person must make application for a writ of review to the Pierce County Superior Court. The cost of transcription of all records ordered certified by the court for such review shall be borne by the appellant.

#### **17.08.016 Civil Penalty.**

A. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of Title 17 shall be subject to a cumulative penalty in the amount of Fifty Dollars (\$50.00) per day for each violation from the date set for compliance until compliance with the order is achieved.

B. The penalty imposed by this section shall be collected by civil action brought in the name of the City. The Planning Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and the City Attorney shall, with the assistance of the Planning Director, take appropriate action to collect the penalty.

C. The violator may show as full or partial mitigation of liability:

1. That the violation giving rise to the action was caused by the wilful act, or neglect, or abuse of another; or

2. That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant.

**17.08.018. Criminal Penalties.**

A. Any person violating or failing to comply with any of the provisions of Title 17 and who has had a judgment entered against him or her pursuant to Section 17.08.016 or its predecessors within the past five (5) years shall be subject to criminal prosecution and upon conviction of a subsequent violation shall be fined in a sum not exceeding Five Thousand Dollars (\$5,000.00) or be imprisoned for a term not exceeding one (1) year or be both fined and imprisoned. Each day of noncompliance with any of the provisions of Title 17 shall constitute a separate offense.

B. The above criminal penalty may also be imposed:

1. For any other violation of Title 17 for which corrective action is not possible; and

2. For any wilful, intentional, or bad faith failure or refusal to comply with the standards or requirements of Title 17.

**17.08.020. Additional Relief.** The Planning Director may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of Title 17 when civil or criminal penalties are inadequate to effect compliance.

Section 12.

Section 13.

Section 14.

Section 12. A new section Title 17.94 is adopted as follows:

Chapter ~~16.44~~ 17.94  
LAND CLEARING

Sections:

<del>16.44</del> 17.94.010	Short title.
<del>16.44</del> 17.94.020	Purposes and permit criteria.
<del>16.44</del> 17.94.030	Definitions.
<del>16.44</del> 17.94.040	Permits.
<del>16.44</del> 17.94.050	Exemptions.



- ~~16.44~~17.94.060 Application for permit.
- ~~16.44~~17.94.070 Performance bond.
- ~~16.44~~17.94.080 Appeals.
- ~~16.44~~17.94.090 Violation - Penalty.
- ~~16.44~~17.94.100 Injunctive enforcement.

~~16.44.17.94.010~~ Short title.

This chapter shall be known and may be cited as the "land clearing code" of the city.

~~16.44.17.94.020~~ Purposes and permit criteria.

These regulations are adopted for the following purposes and the code official shall consider such purposes as criteria or standards for the issuance of land clearing permits under GHMC

~~16.44.17.94.040~~:

- A. To promote the public health, safety, and general welfare of the citizens of the city;
- B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;
- C. To promote land development practices that result in a minimal disturbance to the city's vegetation and soils;
- D. To minimize surface water and ground water runoff and diversion and to prevent erosion and reduce the risk of slides;
- E. To minimize the need for additional storm drainage facilities;
- F. To retain clusters of trees for the abatement of noise and for wind protection;
- G. To promote building and site planning practices that are consistent with the city's natural topographical and vegetational features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and groundcover;
- H. To reduce siltation and water pollution in the harbor;
- I. To implement the goals and objectives of the Washington State Environmental Policy Act;
- J. To implement and further the city's comprehensive plan;
- K. It is not the intent or purpose of this chapter to prevent the reasonable development of land in the city.

~~16.44.17.94.030~~ Definitions.

- A. "City" shall mean the city of Gig Harbor, Washington.
- B. "Code official" shall mean the director of planning and building or his designated representative.
- C. "Developed property" shall mean a lot or parcel of land upon which a building/buildings is/are located but which contains insufficient area to be capable of further

subdivision in accordance with the Gig Harbor subdivision or short subdivision ordinances (GHMC Title 16), as now or hereafter amended.

D. "Groundcover" shall mean small plants such as salal, ivy, ferns, mosses, grasses or other types of vegetation which normally cover the ground and shall include trees less than three inches in diameter measured at 54 inches above ground.

E. "Land clearing" shall mean the act of removing or destroying trees or groundcover from any undeveloped or partially developed land, public lands, or public right-of-way, except for those Forest Practices covered under Chapter 76.09 RCW.

F. "Partially developed property" shall mean a lot or parcel of land upon which a building/buildings is/are located and which is of sufficient area so as to be capable of subdivision in accordance with the Gig Harbor subdivision or short subdivision ordinances (GHMC Title 16), as now or hereafter amended.

G. "Tree" shall mean any living woody plant characterized by one main stem or trunk and many branches, and having a diameter of three inches or more measured at 54 inches above ground.

H. "Undeveloped property" shall mean a lot or parcel of land upon which no building exists, and which may or may not be of sufficient area so as to be capable of subdivision in accordance with the Gig Harbor subdivision or short subdivision ordinances (GHMC Title 16), as now or hereafter amended.

~~16.44.17.94.040~~ Permits.

No person, corporation, or other legal entity shall engage in or cause land clearing in the city without having obtained a land clearing permit from the code official.

~~16.44.17.94.050~~ Exemptions.

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

A. Projects requiring approval of the city council under the provisions of the Gig Harbor subdivision or short subdivision ordinances (GHMC Title 16), or the zoning ordinance of the city (GHMC Title 17), as now or hereafter amended, provided that land clearing on such projects shall take place only after the city council approval and shall be in accordance with such approval;

B. The installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;

C. Removal of trees and groundcover in emergency situations involving immediate danger to life or property or substantial fire hazards;

D. Removal of diseased groundcover or trees upon written verification by Department of Natural Resources filed with the code official;

E. Selective removal of trees or groundcovers for purposes of general property and utility maintenance, landscaping or gardening, provided that this exemption shall not apply to any land clearing which eliminates both trees and groundcover from 25 percent of the area of a lot or parcel of land or which includes the use of a bulldozer or similar mechanical equipment and shall not be construed to eliminate the requirement of permits for land

clearing for the purpose of developing the property with substantial permanent improvements such as roads, parking, driveways, utilities, or buildings.

~~16.44.17.94.060~~ Application for permit.

An application for a land clearing permit shall be submitted on a form provided by the city, together with a plot plan and other information as described hereinafter:

A. The applicant shall give the name, address and the telephone number of the applicant and owner of the property;

B. The applicant shall give the street address (if known) and legal description of the property, including assessor's parcel number;

C. The applicant shall bear a proposed time schedule for land clearing, land restoration, implementation of erosion control and any excavation or construction of improvements;

D. 1. A plot plan containing the following information:

a. Date, north arrow and adequate scales as determined by the code official,

b. Prominent physical features of the property including, but not limited to, topography and watercourses,

c. General location, type, range of size, and condition of trees and groundcover,

d. Identification by areas of trees and groundcover which are to be removed,

e. Any existing improvements on the property including, but not limited to: structures, driveways, ponds, and utilities,

f. Information indicating the method of drainage and erosion control, and restoration of land during and following the clearing operation.

2. The code official shall complete his review and make his decision within 14 calendar days from the date the complete application is submitted unless an extension is authorized by the city council.

3. Any permit granted hereunder shall expire one year from the date of issuance. Upon a showing of good cause, a permit may be extended for six months by the code official. Approved plans shall not be amended without authorization of the code official. The permit may be suspended or revoked by the code official because of incorrect information supplied or any violation of the provisions of this chapter.

4. No work shall commence until a permit notice has been posted by the applicant on the subject site at a conspicuous location. The notice shall remain posted in said location until the project has been completed.

5. Applications for land clearing permits shall be circulated to other departments or agencies of the city for review and approval as is deemed necessary by the code official.

6. Failure to obtain a forest practice application, where applicable, with the stated intent of land conversion as defined in RCW 76.09.020(4) shall be grounds for denial of any and all applications for permits or approvals, including building permits and

subdivision approvals, relating to nonforestry uses of the land for a period of six years, in accordance with RCW 76.09.060(3)(b).

E. Other information as deemed necessary by the code official may be required.

~~16.44.17.94.070~~ Performance bond.

The code official may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of his permit and within the term thereof. The bond shall be in an amount equal to the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the code official.

~~16.44.17.94.080~~ Appeals.

Any person or persons aggrieved by any action of the code official may, within 10 days of such action, file a notice of appeal with the city council setting forth the reasons for such an appeal. The city council shall hear and determine the matter and may affirm, modify, or disaffirm the administrative decision within 45 days of the filing of notice of appeal.

~~16.44.17.94.090~~ Violation - Penalty.

Violations of this chapter, excepting unauthorized land clearing, are an infraction and subject to a penalty of \$500.00 as provided in GHMC 1.16.010D. If civil proceedings are commenced to stop a violation of this chapter, such proceedings may be commenced in either the municipal court or superior court as the city determines. Any person, firm, or corporation which has engaged in land clearing that has not been approved by the city's code official shall incur a civil penalty in an amount not to exceed \$5,000 based on the nature and severity of the violation as determined and assessed by the code enforcement officer and shall be enforced in accordance with the procedures established under Chapter ~~15.18~~ 17.08 GHMC.

~~16.44.17.94.100~~ Injunctive enforcement.

Any violation of the provisions of this chapter is hereby declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.

Section 13. Section 17.01 is hereby amended as follows:

Chapter 17.01  
GENERAL PROVISIONS

Sections:

17.01.010 Title.

17.01.020 Purpose.

17.01.030 Conformity with regulations required.

- 17.01.040 Public uses.
- 17.01.050 Interpretation and application of provisions.
- 17.01.060 Conflict with other regulations.
- 17.01.070 Public notice.
- 17.01.080 Curbs and sidewalks.
- 17.01.085 Fence or shrub height.
- 17.01.090 Underground utilities.
- 17.01.100 Construction trailers and portable offices - temporary uses.

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17.01.070 Public notice.

A. When Required. A public notice is required whenever action is to be taken on the following:

1. A project which requires a conditional use permit;
2. A project for which a site plan is required;
3. A project or activity for which a variance permit is required;
4. Appeals as allowed in Chapter 17.10 GHMC; and
- ~~5. Amendments to zoning code district designations.~~
5. Shoreline Management Substantial Development, Variance or Conditional Use Permit

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17.01.080 Curbs and sidewalks.

Concrete sidewalks, curbs and gutters, consistent with the City of Gig Harbor Public Works Construction Standards ~~having a width of six feet (measured from the face of the curb)~~ shall be provided along the street side(s) of any development proposal requiring site plan approval ~~along with concrete curbs and gutters and street paving to connect the new walk to the adjacent street.~~ (Ord. 573 § 2, 1990).

17.08.010.01.085 Conformance required - Fence or shrub height.

~~A. No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designed or intended to be used for any purpose or in any manner other than a use listed in this title as permitted in the use district in which such land, building, structure or premises is located.~~

A.B In order to maintain and preserve safe vision purposes on all corner lots, there shall be no fences, shrubs or other physical obstructions within 20 feet of the apex of the property corner at the intersecting streets, higher than 36 inches above the existing grade.

~~B.C~~ On interior lots a fence not exceeding six feet in height above the existing grade may be located anywhere from the front yard setback line to the rear property line. Within the front yard, a fence not exceeding three feet in height may be constructed to the side yard property lines with provisions for safe vision clearance where a driveway intersects the fronting street.

C.D Fences shall not be constructed of plywood or composition sheeting. (Ord. 667 § 2, 1994; Ord. 652 § 2, 1993; Ord. 109A 3, 1968).

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17.01.100 Construction trailers - Temporary uses.

A. Applicants who are in the process of constructing a building or buildings may apply for a temporary permit, which shall be subject to renewal, to locate a construction trailer or similar portable office on the building lot during the course of construction of the building or buildings. Such permit shall not be issued until after a building permit has been obtained.

B. Construction trailer or portable offices may be used as caretaker's quarters at various job sites which are controlled by other permits of limited time duration. All other types of caretaker quarters must meet the requirements for dwellings.

C. Construction trailers or portable offices used for temporary uses must have an approval on sewage disposal system, water supply, and electrical connection.

D. A temporary use permit may be issued by the planning/building department for a period not to exceed one year; provided, the department, for good cause shown, may renew the permit for an additional six-month period, at which time the temporary use (construction trailer or portable office) and all appurtenances thereto shall be removed from the property.

E. As a condition to the issuance of a temporary permit under the provisions of this section, the owner shall deposit in trust with the city, in cash or its equivalent, the amount of \$500.00, to be deposited in a special fund created by this section and identified as the "construction trailer or portable office deposit fund," and shall enter into an agreement with the city. Such agreement shall provide, at a minimum, as follows:

1. The applicant agrees to pay to the city all fees, costs, and/or expenses, legal or otherwise, which the city may incur in causing the removal of the construction trailer or portable office, and all its appurtenances left in place beyond the time period approved by the city or used or installed in violation of the ordinances of the city;

2. The applicant agrees that all such fees, costs and/or expenses incurred by the city shall be deducted from the \$500.00 deposit;

3. The applicant agrees to pay to the city such fees, costs, and/or expenses incurred by the city which are in excess of the \$500.00 deposit;

4. The city agrees to refund the \$500.00 deposit at the time of expiration of the permit, in total, provided the city does not incur such fees, costs, and/or expenses, or shall refund the remainder of the deposit after deduction of such fees, costs, and/or expenses; and

5. The city agrees to provide to the applicant a complete and accurate accounting of all such fees, costs, and/or expenses, if any, incurred by the city.

F. A temporary use permit will be issued by the planning/building department. The fee will be \$50.00 and is in addition to all other required permits for electrical, plumbing and sewage disposal systems.

Section 14. Section 17.04 is hereby amended as follows:

Chapter 17.04  
DEFINITIONS

Sections:

17.04.025 Adult Family Home

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17.04.365 Floor area ratio.

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17.04.555 Ministorage warehousing.

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~~17.04.680 Profession~~

17.04.692 Recreational, outdoor

17.04.693 Recreational, building

17.04.704 Sales, retail

17.04.706 Sales, wholesale

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17.04.865 Warehousing

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17.04.025 Adult Family Home

"Adult family home" is a facility licensed pursuant to chapter 70.128 RCW or the regular family abode of a person or persons who are providing personal care, room and board to one adult not related by blood or marriage to the person providing the services.

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17.04.250 Comprehensive plan. "Comprehensive plan" means an officially adopted document of texts, charts, graphics, maps or any combination thereof that is designed to portray a general long-range proposal for the arrangement of land uses and the development of an economic base of human resources and that is intended primarily to guide ~~government~~ public policy toward achieving the orderly and coordinated development of the entire community. (Ord. 573 § 2, 1990).

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17.04.260 Conditional use.

"Conditional use" means a use listed among those classified in any given zone but permitted only after a public hearing by the ~~city council~~ hearing examiner and the granting of a conditional use permit imposing such performance standards as will make the use compatible with other permitted uses in the same district

17.04.264 Day care. "Day care" means the supervised non-medical care of people for periods of less than 24 consecutive hours. The care of up to ~~six~~ twelve children ~~under the age of 12 years and~~ supervised by the occupants of a ~~the~~ residence is regarded as an accessory use, requiring no permits under this title. (Ord. 573 § 2, 1990).

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17.04.290 Dwelling, multiple-family. "Multiple-family dwelling" means a residential building that is designed for or occupied by three or more families living independently of each other in separate but attached dwelling units. (Ord. 573 § 2, 1990).

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17.04.330 Family. "Family" means any number of individuals related by blood or

marriage or an unrelated group of not more than five persons living together in a dwelling unit. (Ord. 573 § 2, 1990).

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17.04.360 Floor area. "Floor area" means the sum of the horizontal area of the several floors of a building or buildings measured from the exterior faces of exterior walls and from centerlines of division walls. The floor area includes basement space, the elevator shafts and stairwells at each floor, mechanical equipment rooms, finished attics with a headroom of seven and one-half feet or more, penthouse floors, interior balconies and mezzanines, and enclosed porches. The floor area shall not include accessory water tanks and cooling towers, mechanical equipment, unfinished attics regardless of headroom, nor areas constructed for and designated as a garage area floor area. Every dwelling unit shall have at least one room of not less than 120 square feet of floor area. Other habitable rooms, except kitchens and bathrooms, shall have an area of not less than 70 square feet. Where more than two persons occupy a room used for sleeping purposes, the required floor area of the room shall be increased at the rate of 50 square feet for each occupant in excess of two. (Ord. 573 § 2, 1990).

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17.04.365 Floor area ratio. "Floor area ratio" is a portional allowance which a building may use for maximum floor area based upon the area of the lot or parcel. The intent of floor area ratios is to minimize the mass, scale and bulk of a structure on a parcel and adjacent parcels while providing sufficient open space, solar access and view opportunities.

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17.04.455 Lot of record. "Lot of record" means a lot, tract or parcel which is defined by a deed recorded with the county auditor and assigned a tax number ~~prior to the effective date of the city subdivision ordinance or short plat ordinance or which has been defined by a survey recorded pursuant to state survey or platting laws or parcels which have been recognized by resolution of the city council, prior to the effective date of the city subdivision ordinance or short plat ordinance, in conformance with Chapter 58-17 RCW.~~ (Ord. 573 § 2, 1990).

\*\*\*

17.04.555 Ministoragewarehousing. "Ministoragewarehousing" means fully enclosed commercial storage facilities, available to the general public and used solely for the storage of personal property (see also "Warehousing"). (Ord. 573 § 2, 1990).

\*\*\*

17.04.630 Nursery, day. "Day nursery" means a commercial enterprise where more than ~~six~~ twelve children are supervised for a period less than 24 consecutive hours. ~~This can include a preschool and/or a kindergarten but not first-year school grades and above.~~ (Ord. 573 § 2, 1990).

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17.04.680 Profession. ~~"Profession" means an occupation or calling requiring the practice of a learned art or specialized knowledge based upon a State issued license or a degree issued by an institute of higher learning, e.g., a doctor of medicine, an engineer or a lawyer.~~ (Ord. 573 § 2, 1990). Professional Office or Service. Professional office or service is the use of a facility or structure for the provision of a specialized service or skill. Professional offices or services are not involved in the sale or lease of a product or merchandise on site.

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17.04.692 Recreation, outdoor

Any privately owned and managed commercial use or activity that typically requires a location outside of a building or structure, such as tennis courts, golf courses/driving ranges, sport courts, etc.

17.04.693 Recreational building.

An enclosed structure used as a facility for indoor recreational activities, including commercial fitness centers.

17.04.695 Recreational vehicle. Recreational vehicle is a motor vehicle or portable vehicular structure that is capable of being towed on the highways by a motor vehicle, is designed or intended for casual or short-term human occupancy for travel, recreational or vacation uses, and is identified by a model number, serial number, or vehicle registration number.

17.04.697 Rental Hall Facility. A building owned by a non-profit organization which is leased on a frequent basis to private groups, individuals or other organizations for special events.

17.04.705 Sales, retail. "Retail sales" means the point of purchase acquisition of finished goods or products by the general public.

17.04.706. Sales, wholesale. "Wholesale sales" mean the acquisition of finished or semi-finished goods, products or materials by a commercial entity, firm or corporation for eventual distribution to a retail market and which are not subject to the retail sales tax.

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17.04.765 Street classification. "Street classification" means and includes:—

A. Major Arterials. "Major arterials" mean and are defined as transportation arteries which connect the focal points of traffic interest within a city, arteries which provide communications with other communities and the outlying areas, or arteries which have relatively high traffic volume compared with other streets within the city.—

B. Secondary Arterials. "Secondary arterials" mean and are defined as routes which serve lesser points of traffic interest within a city, provide communication with outlying districts in the same degree or serve to collect and distribute traffic from the major arterials to the local streets.—

C. Access Streets. "Access streets" mean and are defined as land service streets and are generally limited to providing access to abutting property. They are tributary to the major and secondary arterials and generally discourage through traffic.—

(Ord. 573 § 2, 1990).

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17.04.865 Warehouse/warehousing. "Warehouse" or "warehousing" is defined as the storage of goods, products or materials for commercial or industrial facilities within a fully enclosed structure.

17.04.870 Variance. "Variance" means a relaxation of the requirements of this title with respect to building setback, building height, the size of signs, coverage or parking (but not with respect to use) approved by the city council upon the recommendation of the hearing examiner.  
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Section 15. Section 17.12 is hereby amended as follows:

17.12.010 Districts established.

The city is divided into the following use districts:

- A. Single-family residential (R-1);
- B. Medium density residential (R-2);
- C. Multiple-family residential (R-3);
- D. Residential business 1 (RB-1);
- E. Residential business 2 (RB-2);
- F. Downtown business (DB);
- G. ~~General business~~ Neighborhood Commercial (B-1);
- H. General business (B-2);
- I. General commercial (C-1);
- J. ~~Westside commercial (WSC)~~ Public-Institutional (PI);
- K. Waterfront residential (WR);
- L. Waterfront Millville (WM);
- M. Waterfront commercial (WC). (Ord. 598 § 3, 1991; Ord. 573 § 2, 1990).

Section 16. Section 17.16 is hereby amended as follows:

17.16.020 Permitted principal uses and structures.

The following principal uses and structures are permitted in an R-1 district:

- A. Single-family dwelling;
- B. ~~Agricultural uses including nurseries and truck gardens as long as objectionable odors or dust are not created;~~ Adult family homes
- C. Publicly owned and operated parks and playgrounds;
- D. Temporary buildings for and during construction;
- E. Family day care facilities ~~centers~~ serving ~~six~~ twelve or fewer children in a home;
- F. Uses and structures that are necessary or desirable adjuncts to permitted uses and structures and are under the management and control of the person, organization or agency responsible for the permitted principal use or structure. (Ord. 573 § 2, 1990).
- I. Manufactured housing in approved manufactured housing subdivisions.
- J. Home occupations

17.16.030 Conditional uses.

Subject to the requirements of Chapter 17.64 GHMC and the standards and procedures for conditional uses as set forth in this title, the following uses may be permitted in an R-1 district:

- ~~A. Child care facilities serving more than six children outside of a home in an institution;~~
- ~~A. B.~~ Public utilities and public service uses such as libraries, electric substations, telephone exchanges, tele-communication transmission and relay facilities and police, fire and water facilities;
- ~~B. C.~~ Schools, including playgrounds and athletic fields incidental thereto;
- ~~C. D.~~ Houses of religious worship, rectories and parish houses;
- ~~E. Home occupations;~~
- ~~D. F.~~ Bed and breakfast establishments;
- ~~E. G.~~ Accessory apartment. When reviewing a conditional use request for an accessory apartment, the hearing examiner shall consider the following guidelines:
  1. The required parking space for the accessory apartment is placed behind the primary structure or is paved with grass-block pavers to avoid an expansive area of hard surface,
  2. The accessory apartment is attached to or placed at least six feet behind the primary structure,
  3. The design of the accessory apartment is incorporated into the primary unit's design with matching materials, colors, window style and roof design,
  4. The entrance to the accessory apartment is oriented away from the view of the street or is designed to appear as a secondary entrance to the primary unit (e.g., garage entrance or service porch entrance),
  5. Utilities for the accessory apartment shall be metered separate from the primary dwelling unit,
  6. The accessory apartment and the primary unit conforms to all other building and zoning code requirements. (Ord. 629 § 1, 1992; Ord. 573 § 2, 1990).

17.16.040 Prohibited uses and structures.

The following uses and structures are prohibited in an R-1 district:

- A. Those not listed under GHMC 17.16.020, permitted principal uses and structures and 17.16.030, conditional uses;
- ~~B. The storage of mobile homes.~~ Unoccupied manufactured homes or storage containers.
- C. Any use including permitted and conditional uses that causes or may reasonably be expected to cause excessive noise, vibration, odor, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the lot on which the use is located. The word "excessive" is defined for these purposes as a degree exceeding that generated by the customary manner of operation of the uses permitted in the district or as a degree injurious to the public health, safety, welfare or convenience; and
- ~~D. Mobile/manufactured dwelling. (Ord. 573 § 2, 1990).~~

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~~17.16.060 Minimum lot size/ Maximum Density~~

~~Twelve thousand square feet for new divisions of land. Undersized lots shall qualify as a building site if such lot is a legal lot of record. Maximum density is 3.5 dwelling units per gross acre. (Ord. 573 § 2, 1990).~~

17.16.0760 Development standards.

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

A. <sup>1</sup> Minimum lot area per building site <u>for short plats</u>	12,000 square feet
B. <sup>1</sup> Minimum lot width	70'
C. <sup>2</sup> Minimum front yard setback	25'
D. Minimum rear yard setback	30'
E. Minimum side yard setback	8'
F. Maximum impervious lot coverage	40%
G. Minimum street frontage	20'
H. <u>Maximum Density</u>	<u>3 dwelling units/acre</u>

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

<sup>2</sup>In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line; provided, such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties in the opinion of the planning and public works directors. The other property line abutting a street shall be deemed the side property line. An undersized lot or parcel shall qualify as a building site if such lot is a lot of record. (Ord. 573 § 2, 1990).

<sup>2</sup> A maximum density of up to 4 dwelling units per acre may be permitted within a planned residential development, pursuant to section 17.89 of the GHMC.

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17.16.0870 Maximum height of structures.

In an R-1 district, all buildings and structures shall have a maximum height of ~~16~~ 35 feet except as provided for under Chapter 17.62 GHMC, height overlay ~~district~~ restriction area (Ord. 573 § 2, 1990).

17.16.080 Height Option for Single Family Dwellings

The maximum height may be increased as follows:

- A. Minimum side yard setback<sup>1</sup> - 20% of lot width
- B. Minimum roof pitch - 8/12 (8 units of rise per 12 units of run)
- C. Maximum height of structures - All buildings and structures shall have a maximum height of sixteen feet except that a 30 foot portion of the house's width may be increased to 24 feet if the following conditions are met:
  - i. The gable or hip end of the 30 foot portion shall face the street so that the ridge is perpendicular to the street. The Planning Director may approve a shift in the orientation of the house if it can be demonstrated that the shift results in a more significant view corridor. On a corner lot the Planning Director may determine the orientation respective to the fronting street.

ii. No structures other than chimneys shall extend beyond the area defined by the gable or hip, i.e., no structure shall extend above the common rafter extending from the top wall plate to the ridge.

iii. The 30 foot wide portion of the structure, measuring 24 feet above grade at the highest elevation, shall not exceed 33 feet above natural or finished grade at its lowest elevation.

<sup>1</sup>Minimum side yard setbacks on one side of the house may be reduced, subject to the Planning Director's approval if the following conditions are met:

1. The setback on one side shall be reduced to no less than the setbacks in the underlying zone.
2. There must be a corresponding increase on the opposite side of the house so that the sum of both side yard setbacks equals 40 percent of the lot width as measured at the structure's location.
3. The Planning Director shall determine that a more significant view corridor could be retained by enlarging the setback on one side of the house as opposed to a 20 percent setback on both sides of the structure.

Section 17. Section 17.20 is hereby amended as follows:

17.20.010 Intent.

An R-2 district is intended to allow for a moderate density of land use that is greater than is permitted in an R-1 district but less than is permitted in an R-3 district, where suitable facilities such as streets, water, sewer and storm drainage are available. An R-2 district provides a transition between a higher density residential district in order to preserve the primarily residential character of existing lower density residential areas. (Ord. 573 § 2, 1990).

17.20.020 Permitted uses.

The following uses are permitted in an R-2 district:

- A. Single-family detached dwellings;
- B. Two-family dwellings (duplexes);
- C. Adult family homes
- ~~D. Public parks and playgrounds;~~
- ~~E. Temporary buildings for and during construction;~~
- ~~F. Family Day care facilities centers, serving six twelve or fewer children in a home;~~
- G. Accessory structures and uses; and
- ~~H. Home occupations subject to Chapter 17.84 GHMC.~~ (Ord. 573 § 2, 1990).
- I. Manufactured housing in approved manufactured housing subdivisions or parks.
- J. Home occupations

17.20.030 Conditional uses.

Subject to the requirements of Chapter 17.64 GHMC and the standards and procedures for conditional uses as set forth in this title, the following uses may be permitted in an R-2 district:

- ~~A. Child care facilities serving more than six children outside of a home in an institution;~~
- ~~A.B. Public utilities and public service uses such as libraries, electric substations, telephone exchanges, tele-communication transmission and relay facilities and municipal service facilities;~~
- ~~B.C. Schools, public and private, including accessory playgrounds and athletic fields;~~
- ~~C.D. Houses of religious worship, rectories and accessory buildings;~~
- ~~D.E. Bed and breakfast establishments;~~
- ~~E.F. Nursing and retirement homes;~~
- ~~F.G. Recreational buildings and community centers. (Ord. 573 § 2, 1990).~~

~~17.20.040 Minimum lot size/ maximum density.~~

~~The minimum lot areas for residential uses are: two-family homes, 14,000 square feet and single-family homes, 7,000 square feet. Maximum density is six dwelling units per acre.~~

17.20.050 040 Development standards.

In an R-2 district, the minimum lot requirements are as follows:

	<del>Single</del>			
	<del>7,000</del>	<del>Family</del>	<del>Nonresi-</del>	
	<del>to</del>	<del>Dwelling</del>	<del>Duplex</del>	<del>den-</del>
	<del>12,000</del>	<del>12,000+</del>	<del>Dwelling</del>	<del>tial</del>
A.	<del>Minimum lot area</del>			
	<del>per building site in</del>			
	<del>square feet</del>	<del>14,000</del>	<del>12,000</del>	
B.	<del>Minimum lot width</del>			
	<del>50'</del>	<del>70'</del>	<del>70'</del>	
C.	<del>Minimum front yard</del>			
	<del>setback*</del>			
	<del>25'</del>	<del>25'</del>	<del>25'</del>	<del>25'</del>
D.	<del>Minimum rear yard</del>			
	<del>25'</del>	<del>25'</del>	<del>25'</del>	<del>30'</del>
E.	<del>Minimum interior side</del>			
	<del>yard setback</del>			
	<del>7'</del>	<del>8'</del>	<del>8'</del>	<del>10'</del>
F.	<del>Maximum impervious</del>			
	<del>lot coverage</del>			
	<del>40%</del>	<del>40%</del>	<del>45%</del>	<del>50%</del>
G.	<del>Minimum street</del>			
	<del>frontage</del>			
	<del>20'</del>	<del>20'</del>	<del>20'</del>	

A.	<u>Minimum lot area for short plats:</u>	<u>7000 square feet/dwelling unit</u>
B.	<u>Minimum lot width:</u>	<u>50 feet</u>
C.	<u>Minimum front yard:</u>	<u>25 feet</u>
D.	<u>Minimum side yard:</u>	<u>7 feet</u>
E.	<u>Minimum rear yard:</u>	<u>25 feet</u>
F.	<u>Maximum site coverage:</u>	<u>40 % of the total lot area.</u>
G.	<u>Maximum density:</u>	<u>6 dwelling units per acre</u>

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

<sup>2</sup>In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line; provided, such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties in the opinion of the planning and public works directors. The other property line abutting a street shall be deemed the side property line. An undersized lot or parcel shall qualify as a building site if such lot is a lot on record. (Ord. 573 § 2, 1990).

<sup>2</sup> A maximum density of up to 7.8 dwelling units per acre may be permitted within a planned residential development, pursuant to section 17.89 of the GHMC.

17.20.060 Maximum height of structures.

In an R-2 district, all buildings and structures shall have a maximum height of ~~16~~ 35 feet except as provided for under Chapter 17.62 GHMC, ~~height overlay district restriction area~~

17.20.070      Height Option for Single Family Dwellings

The maximum height may be increased as follows:

- A. Minimum side yard setback<sup>1</sup> - 20% of lot width
- B. Minimum roof pitch - 8/12 (8 units of rise per 12 units of run)
- C. Maximum height of structures - All buildings and structures shall have a maximum height of sixteen feet except that a 30 foot portion of the house's width may be increased to 24 feet if the following conditions are met:
  - i. The gable or hip end of the 30 foot portion shall face the street so that the ridge is perpendicular to the street. The Planning Director may approve a shift in the orientation of the building if it can be demonstrated that the shift results in a more significant view corridor. On a corner lot the Planning Director may determine the orientation respective to the fronting street.
  - ii. No structures other than chimneys shall extend beyond the area defined by the gable or hip, i.e., no structure shall extend above the common rafter extending from the top wall plate to the ridge.
  - iii. The 30 foot wide portion of the structure, measuring 24 feet above grade at the highest elevation, shall not exceed 33 feet above natural or finished grade at its lowest elevation.

<sup>1</sup>Minimum side yard setbacks on one side of the house may be reduced, subject to the Planning Director's approval if the following conditions are met:

1. The setback on one side shall be reduced to no less than the setbacks in the underlying zone.

2. There must be a corresponding increase on the opposite side of the house so than the sum of both side yard setbacks equals 40 percent of the lot width as measured at the structure's location.
3. The Planning Director shall determine that a more significant view corridor could be retained by enlarging the setback on one side of the house as opposed to a 20 percent setback on both sides of the structure.

Section 18. Section 17.24 is hereby amended as follows:

17.24.020 Permitted principal uses and structures.

The following principal uses and structures are permitted in an R-3 district:

- A. Duplexes and multiple-family dwellings up to eight attached dwelling units per structure;
- B. Bed and breakfast establishments;
- C. Nursing and retirement homes subject to the basic density requirements of the district;
- D. Adult family homes;
- ~~E.D.~~ Family day care centers serving ~~six~~ twelve or fewer children in a home;
- ~~E.E.~~ Publicly owned parks and playgrounds; and
- ~~G.F.~~ Accessory uses and structures such as:
  1. Temporary buildings for and during construction, and
  2. Uses and structures that are normal, necessary or desirable adjuncts to

permitted uses. (Ord. 573 § 2, 1990).

- I. Manufactured housing in approved manufactured housing subdivisions or parks.
- J. Home occupations

17.24.030 Conditional uses.

Subject to the requirements of Chapter 17.64 GHMC and the standards and procedures for conditional uses as set forth in this title, the following uses may be permitted in an R-3 district:

- ~~A. Child care facilities serving six or more children outside of a home in an institution;~~
- ~~A.B.~~ Public utilities and public services uses such as libraries, electrical substations, telephone exchanges and police, tele-communication transmission and relay facilities and fire and water facilities;
- ~~B.C.~~ Recreational buildings and community centers;
- ~~C.D.~~ Schools, public and private;
- ~~D.E.~~ Houses of religious worship, rectories and parish houses;
- ~~E.F.~~ Private nonprofit clubs;
- ~~F.G.~~ Parking lots; and
- G.H. Single-family dwellings. (Ord. 573 § 2, 1990).

17.24.050 Development standards.

In an R-3 district, the minimum lot requirements are as follows:

- ~~Single~~
- ~~Family~~
- ~~Dwelling~~ Three Non-



~~(as a conditional use) Duplex or more residential Dwelling units residential~~

- ~~A. Minimum lot area per building site in square feet 7,000 14,000 20,000 12,000~~
- ~~B. Minimum lot width 70' 70' 70' 70'~~
- ~~C. Minimum front yard setback\* 25' 25' 25' 25'~~
- ~~D. Minimum rear yard setback 25' 25' 15' 30'~~
- ~~E. Minimum interior side yard setback 8' 8' 8' 10'~~
- ~~F. Maximum impervious lot coverage 40% 40% 65% 50%~~
- ~~G. Minimum street frontage 20' 20' 50' 50'~~

- A. <sup>1</sup>Minimum area for short plats: 5400 square feet/dwelling unit
- B. <sup>1</sup>Minimum lot width: 50 feet
- C. <sup>2</sup>Minimum front yard: 20 feet
- D. Minimum side yard: 7 feet
- E. Minimum rear yard: 25 feet
- F. Maximum site coverage: 60 % of the total lot area.
- G. <sup>3</sup>Maximum Density 8 dwelling units per acre

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

<sup>2</sup>In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line; provided, such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties in the opinion of the planning and public works directors. ~~An undersized lot shall qualify as a building site if such lot is a lot of record. The maximum density in an R-3 district is eight dwelling units per acre. (Ord. 573 § 2, 1990).~~

<sup>3</sup> A maximum density of up to 10.4 dwelling units per acre may be permitted within a planned residential development, pursuant to section 17.89 of the GHMC.

17.24.060 Maximum height of structures.

In an R-3 district, all buildings and structures shall have a maximum height of ~~16~~ 35 feet except as provided for under Chapter 17.62 GHMC, height ~~overlay district restriction area~~

17.24.070 Height Option for Single Family Dwellings

The maximum height may be increased as follows:

- A. Minimum side yard setback<sup>1</sup> - 20% of lot width
- B. Minimum roof pitch - 8/12 (8 units of rise per 12 units of run)

C. Maximum height of structures - All buildings and structures shall have a maximum height of sixteen feet except that a 30 foot portion of the house's width may be increased to 24 feet if the following conditions are met:

i. The gable or hip end of the 30 foot portion shall face the street so that the ridge is perpendicular to the street. The Planning Director may approve a shift in the orientation of the building if it can be demonstrated that the shift results in a more significant view corridor. On a corner lot the Planning Director may determine the orientation respective to the fronting street.

ii. No structures other than chimneys shall extend beyond the area defined by the gable or hip, i.e., no structure shall extend above the common rafter extending from the top wall plate to the ridge.

iii. The 30 foot wide portion of the structure, measuring 24 feet above grade at the highest elevation, shall not exceed 33 feet above natural or finished grade at its lowest elevation.

<sup>1</sup>Minimum side yard setbacks on one side of the house may be reduced, subject to the Planning Director's approval if the following conditions are met:

1. The setback on one side shall be reduced to no less than the setbacks in the underlying zone.

2. There must be a corresponding increase on the opposite side of the house so that the sum of both side yard setbacks equals 40 percent of the lot width as measured at the structure's location.

3. The Planning Director shall determine that a more significant view corridor could be retained by enlarging the setback on one side of the house as opposed to a 20 percent setback on both sides of the structure.

Section 19. Section 17.28 is hereby amended as follows:

Chapter 17.28  
RESIDENTIAL AND BUSINESS - LOW INTENSITY  
DISTRICT (RB-1)

Sections:

- 17.28.010 Intent.
- 17.28.020 Permitted uses and structures.
- 17.28.030 Conditional uses.
- 17.28.040 Site plan.
- 17.28.050 Minimum development standards.
- 17.28.060 Maximum height of structures.

- 17.28.070 Parking and loading facilities.
- 17.28.080 Signs.
- 17.28.090 Performance standards.

17.28.010 Intent.

An RB-1 district is intended to provide a mix of residential uses with certain specified business, personal and professional services. It is also intended to serve as a buffer between high intensity commercial and lower density residential uses. The regulations and restrictions in an RB-1 district are intended to protect and preserve residential uses while permitting business uses characterized principally by professional and consultive services or executive and administrative offices, compatible with single-family residential development. To this extent, non-residential structures should be limited in total gross floor area per lot in order to minimize the impact of bulk and scale to residential neighborhoods.

17.28.020 Permitted uses and structures.

The following principal uses and structures are permitted in an RB-1 district:

- A. All uses permitted in the R-1 district;
- B. Bed and breakfast establishments;
- C. Business and Professional offices and personal services;
- D. Publicly owned parks and playgrounds;
- E. Temporary buildings for and during construction;
- ~~F. Uses and structures that are necessary or desirable adjuncts to permitted uses and structures and are under the management and control of the person, organization or agency responsible for the permitted principal use or structure;~~
- G.F. Uses which complement or facilitate permitted uses such as parking facilities or public plazas; and
- H. G. Pharmacies solely incidental to medical offices.
- I. Mobile/Manufactured home parks.

\*\*\*

17.28.030 Conditional uses

Subject to the requirements of Chapter 17.64 GHMC and the standards and procedures for conditional uses as set forth in this title, the following uses may be permitted in an RB-1 district:

- A. Nursing homes and retirement facilities;
- B. Child care facilities ~~containing more than six children;~~
- C. Public utilities and public service uses such as libraries, electrical substations, telephone exchanges and police, fire and water facilities;
- D. Recreational buildings and community centers;
- E. Schools, public and private;
- F. Outdoor recreational activities.
- G. Houses of religious worship
- H. Rental halls.

~~Abutting R-1/R-2 district — 30 feet, with dense vegetative screening~~

- ~~E. Residential yards~~ ~~Same as setbacks in R-3 district~~
- ~~F. Maximum impervious coverage~~ ~~50% 60%~~
- ~~G. Minimum street frontage~~ ~~20' 50'~~

	<u>Residential</u>	<u>Non-residential</u>
A. Minimum lot area (square feet)	12,000	15,000
B. Minimum lot width	70'	70'
C. Minimum front yard setback	20'	20'
D. Minimum rear yard setback	25'	15'
E. Minimum side yard setback	7'	10'
F. Maximum impervious lot coverage	50%	60%
G. Minimum street frontage	20'	50'
H. <u>Maximum gross floor area</u>	<u>N/A</u>	<u>5,000 square feet/lot</u>
I. <u>Maximum Density</u>	<u>3 dwelling units/acre</u>	

~~H. More than one principal structure may be allowed on a single lot in an RB-1 district. Any yard abutting a single family residence shall be required to maintain a 30' wide dense vegetated screen.~~

~~I. An undersized lot of record shall qualify as a building lot provided it cannot be combined with another lot and, provided further, that compliance with the setback and coverage requirements are met.~~

~~J. Parking is not permitted in the side yards. Parking in front and rear yards is permitted, provided that a minimum landscape buffer of 10 feet is provided. In rear yards, a dense vegetative screen shall be provided between the parking area and any adjacent residence. (Ord. 601 § 1, 1991; Ord. 573 § 2, 1990).~~

17.28.060 *Maximum height of structures.*

In an RB-1 district, all buildings and structures shall have a maximum height of ~~16~~ 35 feet except as provided for under Chapter 17.62 GHMC, height ~~overlay district restriction area~~

17.28.070 *Parking and loading facilities.*

In an RB-1 district, parking and loading on private property shall be provided in connection with any permitted or conditional use as specified in Chapter 17.72 GHMC. Parking is not permitted in the side yards. Parking in front and rear yards is permitted, provided that a minimum landscape buffer of 10 feet is provided. In rear yards, a dense vegetative screen shall be provided between the parking area and any adjacent residence. (Ord. 573 § 2, 1990).

Section 20. Section 17.30 is hereby amended as follows:

Chapter 17.30  
RESIDENTIAL AND BUSINESS-HIGH INTENSITY  
DISTRICT (RB-2)

\*\*\*

Sections:

- 17.30.010 Intent.
- 17.30.020 Permitted uses and structures.
- 17.30.030 Conditional uses.
- 17.30.040 Site plans.
- 17.30.050 Development standards.
- 17.30.060 Site coverage.
- 17.30.070 Maximum building height.
- 17.30.080 Parking.
- 17.30.090 Signs.
- 17.30.100 Loading.
- ~~17.30.110 Supplemental standards.~~

\*\*\*

17.30.020 Permitted uses and structures.

The following uses and structures are permitted in an RB-2 district:

- A. Multiple-family dwellings;
- B. Bed and breakfast accommodations;
- C. ~~Business and Professional~~ offices or services as described in GHMC 17.28.020;
- D. Retail uses clearly accessory to the principal office use of a structure;
- ~~E. Day care centers containing six or fewer children; Child care facilities~~
- ~~E. F.~~ Publicly owned parks and playgrounds; and
- ~~F. G.~~ Banking institutions. (Ord. 554 § 1B, 1989).
- G. Mobile/Manufactured home parks and subdivisions.

\*\*\*

17.30.050 Development standards.

In an RB-2 district, development standards shall be satisfied for all new and redeveloped uses requiring site plan review:

- A. Minimum lot area: 12,000 square feet;
- B. Minimum lot width: 70 feet;
- C. Front yard setback: 20 feet;
- D. Side yard setback: 8 feet;
- E. Rear yard setback: 15 feet;

Any yard abutting an existing residential use or zone: 40 feet with dense vegetative screening.  
Easements not having dense vegetative screening are not included

- G. Maximum Density: Eight dwelling units per acre permitted outright; 12 dwelling units per acre ~~maximum~~ allowed as a conditional use. (Ord. 554 § 1E, 1989).

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17.30.070 Maximum height of structures.

In an RB-2 district, all buildings and structures shall have a maximum height of ~~16-~~ 35 feet except as provided for under Chapter 17.62 GHMC, height ~~overlay district restriction area~~.

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~~17.30.110 Supplemental standards-Performance standards.~~

~~In an RB-2 district, the development standards set forth in GHMC 17.58.060 through 17.58.110 shall be applicable to this chapter. (Ord. 554 § 1K, 1989).~~

~~In an RB-2 district, performance standards are as follows:~~

~~A. Exterior Mechanical Devices. Air conditioners, heating, cooling and ventilating equipment, pumps and heaters and all other mechanical devices shall be screened.~~

~~B. Landscaping. Landscaping is required and shall be installed in conformance with Chapter 17.78 GHMC and/or by conditions of approval of discretionary applications required by this title; such landscaping shall be maintained in a neat manner. In no event shall such landscaped areas be used for storage of materials or parking of vehicles.~~

~~C. Outdoor Storage of Materials. The outdoor storage of materials, including but not limited to lumber, auto parts, household appliances, pipe, drums, machinery or furniture, is permitted as an incidental or accessory activity of a permitted use or the principal feature of a conditional use. Such storage shall be screened by a wall, fence, landscaping or structure from surrounding properties and streets.~~

~~D. Outdoor Lighting. Within 100 feet of any residential zone or use, outdoor lighting and aerial mounted floodlighting shall be shielded from above in such a manner that the bottom edge of the shield shall be below the light source. Such lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise. Temporary outdoor lighting intended to advertise a temporary promotional event shall be exempt from this requirement.~~

~~E. Trash Receptacles. Trash receptacles shall be screened from view. Screening shall be complementary to building design and materials. (Ord. 573 § 2, 1990).~~

Section 21. Section 17.31 is hereby amended as follows:

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17.31.080 Maximum height of structures.

In the DB district, all buildings and structures shall have a maximum height of ~~16-~~ 35 feet except as provided for under Chapter 17.62 GHMC, height ~~overlay district restriction area~~.

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17.31.110 Performance standards.

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D. Outdoor Display of Merchandise. The outdoor display of merchandise is limited to the area immediately along the building frontage a maximum distance of twelve feet from the building. Out door displays of merchandise on public sidewalks or right-of-ways shall be regulated per Section 12.02 of the Gig Harbor Municipal Code.

E.D. Outdoor Lighting. Within 100 feet of any residential zone or use, outdoor lighting and aerial mounted floodlighting shall be shielded from above in such a manner that the bottom edge of the shield shall be below the light source. Such lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise. Temporary outdoor lighting intended to advertise a temporary promotional event shall be exempt from this requirement.

F.E. Trash Receptacles. Trash receptacles shall be screened from view. Screening shall be complementary to building design and materials. (Ord. 573 § 2, 1990).

Section 22. Section 17.32 is hereby amended as follows:

Chapter 17.32

NEIGHBORHOOD COMMERCIAL GENERAL BUSINESS DISTRICT (B-1)

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17.32.010 Intent.

This district is intended to provide shopping facilities close to residential areas for the convenience of nearby residences in satisfaction of only daily or frequent shopping needs, while reducing the hazards of local traffic by limiting the kinds of retail activities to those suitable for stores of ~~10,000~~ 5,000 square feet of floor area or less per parcel, such as groceries, bakeries or drugstores. Residential uses, subordinate to the principal commercial use, are suitable for this district. The protective standards for site development contained in this chapter are intended to minimize any adverse effect of such development on nearby property values, and to provide for safe and efficient use of the development itself. ~~Submission of a site development plan is intended to serve as a guide to the city council and planning commission for the evaluation of the application in terms of the public interest. Such information is further intended to substantiate a finding that the proposed development will promote the general welfare of the city. It is further intended that any financial responsibility of the developer for work to be done on city streets bounding or giving access to the development, which arises out of the provisions of this chapter, be made the subject of a contractual agreement between the developer and the city, and that such contractual agreement may contain provisions to effectuate any other section of this chapter. The principles or guidelines to be applied are as follows:~~

A. All business establishments shall be retail or service establishments dealing directly with consumers, and only those goods shall be produced that are sold on the premises. Residential uses are allowed, if they are subordinate to the principal commercial use on the site and providing that they do not occupy the groundfloor of the structure.

B. ~~The maximum gross floor area for a non-residential structure occupied by any business establishment shall not exceed 10,000~~ 5,000 square feet per lot, exclusive of required parking.

C. All business shall be conducted within completely enclosed buildings, ~~no~~ Open or drive-in establishments being ~~permitted~~ are not permitted. (Ord. 231, 1976; Ord. 109A 7.1, 1968).

17.32.020 Permitted uses.

Subject to the regulations of GHMC 17.32.030, the following uses are permitted in a B-1 district:

- A. All uses permitted in an R-2 district;
- B. Barbershops and beauty parlors;
- C. Drugstores;
- D. Drycleaning and laundry receiving establishments, processing not to be done on the premises;
- E. Food stores, such as grocery stores, meat markets, bakeries and delicatessen stores;
- F. Hardware stores;
- G. Laundries, of the automatic, self-service type;
- H. Shoe repair stores;
- I. Variety stores;
- J. Temporary buildings for and during construction;
- ~~K. Relating to storage uses, such establishments may be permitted to conduct business outside of enclosed buildings for the purposes of storage of wheeled vehicles, trailers and other wheeled implements. Any such business conducted outside of enclosed buildings shall be within the confines of an area properly secured, fenced and screened, and shall be allowed only after completion of site plan review as specified in GHMC 17.32.030; Residences located above the ground floor of a commercial establishment.~~

~~L. Light manufacturing;~~

~~M. Bowling alleys;~~

~~N. Restaurants, cocktail lounges and taverns. (Ord. 349, 1980; Ord. 231, 1976; Ord. 109A 7.2, 1968).~~

17.32.030 Site plans.

The procedures established under Section 17.96 shall apply to development within this district.

~~A. Before a building permit will be issued in this zone, except a single family residence or duplex, a minimum of triplicate site plans shall be submitted to the city clerk for transmittal to the city building inspector.~~

~~B. Site plans will be drawn to scale of no smaller than one inch equals 30 feet and shall include the following:~~

- ~~1. Location and arrangement of proposed building on lot;~~
- ~~2. Three contiguous property lines of adjacent property owners;~~
- ~~3. Location and size of off street parking to include ingress and egress as well as internal traffic circulation and service facilities;~~
- ~~4. Proposed landscaping to include drainage and permanent landscaping or screening which is feasible for the property within the proposed development;~~
- ~~5. A separate scale drawing of the exterior of the building(s) to include siding material, signs, and screening design and material;~~
- ~~6. A city of Gig Harbor environmental work sheet.~~

~~C. If the city clerk and the city building inspector find the plans lacking in any respect, or that the proposed development would not meet the regulations of the district for which they are designed, the city clerk or the city building inspector will return same to the applicant(s) with a~~



~~notation as to where they are deficient. When corrected, they will be again placed in the hands of the city clerk and the city building inspector for review and transmittal to the planning commission.~~

~~D. If the city clerk and the city building inspector find a variance, a conditional use permit or a rezone would be a necessary adjunct to the carrying out of the proposed plans, the applicant (s) shall be so notified, that they may make application for such variance, conditional use permit or zone change coincident with the application for site plan approval, if so desired.~~

~~E. The city clerk shall assign public hearing dates for the applicant for both the planning commission and city council and forward the site plans to the planning commission which shall, at its earliest possible regular meeting, consider approval of the plans with special attention to:~~

- ~~1. Compatibility with the city's comprehensive plan;~~
- ~~2. Compatibility with surrounding buildings, occupancy, and use factors;~~
- ~~3. All relevant statutory codes, regulations and ordinances and compliance with same.~~

~~F. Upon completion of its study of the site plans the planning commission shall transmit same to the city council together with a letter of approval or rejection of the plans. Should approval be recommended the letter may include recommendations for any special restrictions or regulations deemed necessary or desirable in furthering the intent of the code pertaining to this proposed development.~~

~~G. The city council, upon receipt of the site plans, shall hold an advertised public hearing and accept or reject, with or without special restrictions or regulations, the site plans submitted.~~

~~H. The city council may require suitable performance bonds to assure compliance with all city ordinances, the amount and nature of same shall be set by the city council, and the city clerk shall arrange for same.~~

~~I. All site plans submitted shall become property of the city and shall be considered an integral part of the building permit when issued.~~

~~J. Upon approval by the city council, the city building inspector is authorized to issue permits for the proposed building(s) and/or development. (Ord. 254, 1977; Ord. 239, 1976; Ord. 231, 1976).~~

### 17.32.033 General Standards

The following general standards shall apply:

<u>A.</u>	<u>Minimum lot area:</u>	<u>5,000 square feet</u>
<u>B.</u>	<u>Minimum lot width:</u>	<u>50 feet</u>
<u>C.</u>	<u>Minimum front yard:</u>	<u>20 feet</u>
<u>D.</u>	<u>Minimum side yard:</u>	<u>10 feet</u>
<u>E.</u>	<u>Minimum rear yard:</u>	<u>25 feet</u>
<u>F.</u>	<u>Maximum site impervious coverage:</u>	<u>80 %</u>
<u>G.</u>	<u>Maximum Residential Density:</u>	<u>4 dwelling units per acre</u>

### 17.32.035 Maximum District Area

The maximum area of a B-1 district shall not exceed 3 acres. A B-1 district may not be located within one-half mile of another commercial district.

17.32.040 Off-street loading.

One off-street loading berth shall be provided, in accordance with Chapter 17.72 GHMC. ~~for 10,000 square feet or more of floor area up to 20,000 square feet, and one additional berth provided for each 20,000 square feet of floor area over 20,000 square feet. (Ord. 231, 1976; Ord. 109A-7.9, 1968).~~

17.32.050 Off-street parking.

~~— A. Off-street parking shall be provided for residences on the basis of one space for each dwelling unit.~~

~~— B. Off-street parking shall be provided for all other uses, in accordance with the off-street parking requirements of Chapter 17.72 GHMC. (Ord. 231, 1976; Ord. 109A-7.10, 1968).~~ Off-street parking and loading shall comply with the standards of section 17.72.

Section 23. Section 17.36 is hereby amended as follows:

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17.36.030 Conditional uses.

Subject to the requirements of Chapter 17.64 GHMC and the standards and procedures for conditional uses as set forth in this title, the following uses may be permitted in a B-2 district:

A. Utilities and public service uses such as libraries, electrical substations, water storage facilities, etc.;

B. Light manufacturing and assembly;

C. ~~Ministorage~~warehouses;

D. Recreational buildings and community centers;

E. Drive-in restaurants; and

F. Radio and television transmission towers. (Ord. 573 § 2, 1990).

\*\*\*

17.36.055 Maximum Gross Floor Area

The maximum gross floor area per commercial structure is 35,000 square feet.

17.36.060 Minimum building setback requirements.

A. Front yard 20 feet

B. Rear yard 20 feet

C. Side Yard:

1. Interior yards 5 feet

2. Flanking street 10 feet

D. Separation Between Structures 20 feet

~~D.E.~~ E. Any yard abutting residential development, 30 feet with dense vegetative screening.

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17.36.080 Maximum height of structures.

In an B-2 district, all buildings and structures shall have a maximum height of ~~16~~ 35 feet except as provided for under Chapter 17.62 GHMC, height ~~overlay district~~ restriction area

\*\*\*

17.36.120 Performance standards.

In a B-2 district, performance standards are as follows:

A. Exterior Mechanical Devices. Air conditioners, heating, cooling and ventilating equipment, pumps and heaters and all other mechanical devices shall be screened.

B. Landscaping. Landscaping is required and shall be installed in conformance with Chapter 17.78 GHMC and/or by conditions of approval of discretionary applications required by this title; such landscaping shall be maintained for the life of the project in a neat manner. In no event shall such landscaped areas be used for storage of materials or parking of vehicles.

C. Outdoor Storage of Materials. The outdoor storage of materials, including but not limited to lumber, auto parts, household appliances, pipe, drums, machinery or furniture, is permitted as an incidental or accessory activity of a permitted use or the principal feature of a conditional use. Such storage shall be screened by a wall, fence, landscaping or structure from surrounding properties and streets.

D. Outdoor Display of Merchandise. The outdoor display of merchandise is limited to the area immediately along the building frontage a maximum distance of twelve feet from the building. Out door displays of merchandise on public right-of-way or sidewalks shall be regulated under the provisions of Chapter 12.02 of the Gig Harbor Municipal Code.

~~E.~~ Outdoor Lighting. Within 100 feet of any residential zone or use, outdoor lighting and aerial mounted floodlighting shall be shielded from above in such a manner that the bottom edge of the shield shall be below the light source. Such lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise. Temporary outdoor lighting intended to advertise a temporary promotional event shall be exempt from this requirement.

~~F.~~ Trash Receptacles. Trash receptacles shall be screened from view. Screening shall be complementary to building design and materials. (Ord. 573 § 2, 1990).

Section 24. Section 17.40 is hereby amended as follows:

17.40.020 Permitted principal uses and structures.

The following principal uses and structures are permitted in a C-1 district:

A. All uses permitted in a B-2 district;

B. Repair shops for appliances, automobiles and small equipment;

C. The production, processing, cleaning, servicing, testing, and repair of materials, goods and products, except that junkyards, auto wrecking yards, garbage dumps and any activity that emits smoke, excessive noise, dirt, vibration or glare, or is otherwise offensive or hazardous, is prohibited;

D. Indoor amusement establishments;

E. Animal hospitals, clinics with overnight confinement and pounds;

F. The sale of motor vehicles, cars and trailers, and vehicle services such as carwashes, garages, tire and battery service facilities;

G. Boat sales and show rooms;

H. Building material sales;

I. Cartage and express facilities and trucking;

J. Contractors' offices and shops;

K. Fishing equipment supplies and repairs;

L. Frozen food lockers;

M. Fuel and ice sales;

N. Commercial greenhouses;

O. Linen towel, diaper and similar supply services and laundry facilities;

P. Storage, warehousing and wholesaling establishments;

Q. Light assembly or manufacturing; ~~and~~

R. All permitted uses of the waterfront. (Ord. 573 § 2, 1990).

S. Child day nursery care facilities schools

17.40.030 Permitted accessory uses and structures.

The following accessory uses and structures are permitted in a C-1 district:

A. Temporary portable buildings for and during construction; and

~~B. Uses and structures that are necessary or desirable adjuncts to permitted uses and structures and are under the management and control of the person, organization or agency responsible for the permitted principal use or structure. (Ord. 573 § 2, 1990).~~

17.40.040 Conditional uses.

Subject to the requirements of Chapter 17.64 GHMC and the standards and procedures for conditional uses as set forth in this title, the following uses may be permitted in a C-1 district:

A. Hospitals, clinics and establishments for people convalescing from illness or operation;

B. Homes for the aged;

~~C. Day nursery schools;~~

~~C.D.~~ Public utilities and public service uses such as libraries, electrical substations, telephone exchanges and police, fire and water facilities;

~~D.E.~~ Recreational buildings and community centers;

~~F. Seasonal Christmas tree sales;~~

~~E.G.~~ Schools, including playgrounds and athletic fields incidental thereto;

~~F.H.~~ Houses of religious worship, rectories and parish houses;

~~G.I.~~ Private and not-for-profit clubs;

- ~~HJ~~ Planned unit developments;
- ~~LK~~ Home occupations;
- ~~JL~~ Ministorage facilities;
- ~~KM~~ Drive-in restaurants; and
- ~~LN~~ Residential uses. (Ord. 573 § 2, 1990).

17.40.050 Prohibited uses and structures.

The following uses and structures are prohibited in a C-1 district:

- A. Those not listed under GHMC 17.40.020, permitted principal uses and structures; 17.40.030, permitted accessory uses and structures; and 17.40.040, conditional uses;
- B. ~~The permanent storage of mobile homes~~ manufactured homes; and
- C. Any use including permitted and conditional uses, that causes or may reasonably be expected to cause noise, vibration, odor, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the lot on which the use is located. The word "excessive" is defined for these purposes as a degree exceeding that generated by the customary manner of operation of the uses in the district or as a degree injurious to the public health, safety, welfare or convenience. (Ord. 573 § 2, 1990).

17.40.055 Maximum Gross Floor Area

The maximum gross floor area per commercial structure is 65,000 square feet.

17.40.070 Minimum lot requirements.

In a C-1 district, the minimum site development lot area is 6,000 square feet, and the minimum lot width is 50 feet. (Ord. 573 § 2, 1990).

17.40.075 Maximum Residential Density

The maximum residential density is 7 dwelling units per acre.

17.40.080 Minimum building setback requirements.

In a C-1 district, there are no minimum requirements for front, side and rear building setbacks. Setback dimensions shall be determined as part of the site plan reviews of Chapter 17.96 GHMC; ~~provided, however, that~~ Where a C-1 district abuts a residential district, the minimum yard shall be 30 feet with a dense vegetative screen located on the commercial property. The minimum separation between commercial structures on the same site shall be 20 feet. (Ord. 573 § 2, 1990).

\*\*\*

17.40.100 Maximum height of structures.

In a C-1 district, all buildings and structures shall have a maximum height of ~~16-~~ 35 feet except as provided for under Chapter 17.62 GHMC, height ~~overlay district~~ restriction area

Section 25. Section 17.46 is hereby amended as follows:

\*\*\*

17.46.020 Permitted uses.

The following uses are permitted in a waterfront residential district:

- A. Single-family and duplex dwellings;
- B. Accessory structures clearly incidental to the residential use of the lot;
- C. Publicly owned and operated parks and shoreline viewing facilities;
- D. Home occupation; and
- E. Family day care within a residential dwelling serving up to twelve children.

\*\*\*

17.46.040 Development standards.

~~In a waterfront residential district, A minimum lot area for new subdivisions is not specified.~~

The minimum lot requirements are as follows:

	<del>Single Family Dwelling</del>	<del>7,000 to 12,000</del>	<del>Less Than</del>	<del>Duplex Dwelling</del>	<del>7,000 to 15,000</del>	<del>Non-residential</del>	<del>12,000</del>
Minimum lot area per building site in square feet	<del>12,000</del>	<del>12,000</del>	<del>50'</del>	<del>50'</del>	<del>70'</del>	<del>70'</del>	<del>12,000</del>
Minimum lot width	<del>70'</del>	<del>50'</del>	<del>50'</del>	<del>70'</del>	<del>70'</del>	<del>70'</del>	<del>70'</del>
Minimum front yard setback*	<del>20'</del>	<del>20'</del>	<del>15'</del>	<del>20'</del>	<del>20'</del>	<del>20'</del>	<del>20'</del>
Minimum rear and/or side yard setback abutting tidelands	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>
Minimum interior side yard setback	<del>8'</del>	<del>5'</del>	<del>5'</del>	<del>8'</del>	<del>8'</del>	<del>10'</del>	<del>10'</del>
Minimum street side yard setback	<del>10'</del>	<del>10'</del>	<del>8'</del>	<del>10'</del>	<del>10'</del>	<del>10'</del>	<del>10'</del>
Maximum impervious coverage	<del>40%</del>	<del>45%</del>	<del>50%</del>	<del>45%</del>	<del>45%</del>	<del>50%</del>	<del>50%</del>
Minimum street frontage	<del>20'</del>	<del>20'</del>	<del>20'</del>	<del>20'</del>	<del>20'</del>	<del>20'</del>	<del>20'</del>

	<u>Single Family Dwelling</u>	<u>Duplex</u>	<u>Non residential</u>
A. <u>Minimum lot area (square feet):</u>	<u>7,000</u>	<u>14,000</u>	<u>12,000</u>
B. <u>Minimum lot width:</u>	<u>70 feet</u>	<u>50 feet</u>	<u>50 feet</u>
C. <sup>1</sup> <u>Minimum front yard:</u>	<u>20 feet</u>	<u>20 feet</u>	<u>20 feet</u>
D. <u>Minimum side yard:</u>	<u>10 feet</u>	<u>10 feet</u>	<u>10 feet</u>
E. <u>Minimum rear yard:</u>	<u>25 feet</u>	<u>25 feet</u>	<u>25 feet</u>
F. <u>Minimum Yard Abutting Tidelands:</u>	<u>0 feet</u>	<u>0 feet</u>	<u>0 feet</u>
G. <u>Maximum site impervious coverage:</u>	<u>40 %</u>	<u>45%</u>	<u>50%.</u>
H. <sup>2</sup> <u>Maximum Density:</u>	<u>3 dwelling units per acre</u>		

<sup>1</sup>In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line, provided such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties in the opinion of the planning

and public works directors. An undersized lot or parcel shall qualify as a building site if such lot is a lot of record.

<sup>2</sup>Density bonus of up to 30 % may be granted subject to the requirements of Section 17.96 (Planned Residential District).

\*\*\*

17.46.060 Maximum height of structures.

In a WR district, all buildings and structures shall have a maximum height of ~~16~~ 35 feet except as provided for under Chapter 17.62 GHMC.

Section 26. Section 17.48 is hereby amended as follows:

17.48.040 Development standards. ~~A. Development standards in the WM district are as follows: A minimum lot area for new subdivisions is not specified.~~ The minimum development standards are as follows

	<del>Single Family</del>	<del>Multi family (duplex fourplex)</del>	<del>Nonresidential</del>
Min. lot area (sq. ft.)	<del>12,000</del>	<del>15,000/duplex</del> <del>18,000/triplex</del> <del>21,000/fourplex</del>	<del>12,000</del>
Min. lot width	<del>70'</del>	<del>100'</del>	<del>100'</del>
Min. front setback	<del>20'</del>	<del>20'</del>	<del>20'</del>
Min. rear and/or side yard abutting Tidelands	<del>0</del>	<del>0</del>	<del>0</del>
Min. int. side setback	<del>8'</del>	<del>8'</del>	<del>10'</del>
Min. street side setback	<del>10'</del>	<del>10'</del>	<del>10'</del>
Max. Impervious coverage	<del>50%</del>	<del>55%</del>	<del>70%</del>

	<u>Single Family Dwelling</u>	<u>Attached up to 4 unit</u>	<u>Non residential</u>
A. <u>Minimum lot area (square feet):</u>	<u>6,000</u>	<u>6,000/unit</u>	<u>15,000</u>
B. <u>Minimum lot width:</u>	<u>50 feet</u>	<u>100 feet</u>	<u>100 feet</u>
C. <u><sup>1</sup>Minimum front yard:</u>	<u>20 feet</u>	<u>20 feet</u>	<u>20 feet</u>
D. <u>Minimum side yard:</u>	<u>8 feet</u>	<u>10 feet</u>	<u>10 feet</u>
E. <u>Minimum rear yard:</u>	<u>25 feet</u>	<u>25 feet</u>	<u>25 feet</u>
F. <u>Minimum Yard Abutting Tidelands:</u>	<u>0 feet</u>	<u>0 feet</u>	<u>0 feet</u>
G. <u>Maximum site impervious coverage:</u>	<u>50 %</u>	<u>55%</u>	<u>70%</u>
I. <u>Maximum gross floor (square feet):</u>	<u>N/A</u>	<u>N/A</u>	<u>3,500/lot</u>
H. <u><sup>2</sup>Maximum Density:</u>	<u>3.5 dwelling units per acre</u>		

<sup>1</sup>In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line, provided such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties in the opinion of the planning

and public works directors. An undersized lot or parcel shall qualify as a building site if such lot is a lot of record.

<sup>2</sup>Density bonus of up to 30 % may be granted subject to the requirements of Section 17.96 (Planned Residential District).

\*\*\*

17.48.060 Height.

A. The maximum building height is 16 feet, ~~except as provided for under Chapter 17.62 GHMC.~~ Additional height of up to 24 feet, maximum, may be permitted for each structure if ~~two~~ one additional waterview and one access opportunityes are provided per structure and the following criteria are met:

1. The structure shall not exceed two stories or floors in height.
2. Each story or floor shall be less than or equal to 10 feet in height as measured from the top of the first floor to the top of the second floor.
3. There shall be no occupancy of the attic space.
4. The pitch of the roof shall have a minimum slope of 2:1 (6:12 pitch) and a maximum slope of 1:1 (12:12 pitch).
5. The proposal is reviewed in accordance with the site plan review criteria and procedure as established in Chapter 17.96 GHMC.

Section 27. Section 17.50 is hereby amended as follows:

17.50.040 Development standards.

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

	Multifamily	Single (Duplex) Family	Non-Fourplex) residential	
A.	Minimum lot area	12,000	15,000	12,000
		21,000		
B.	Minimum lot width	70'	100'	100'
C.	Minimum front setback	20'	20'	20'
D.	Minimum rear setback			
	if tidelands not owned	15'	15'	15'
E.	Minimum rear and/or side yard setback to			
	owned abutting tidelands	0	0	0
F.	Minimum interior side setback	8'	8'	10'
G.	Minimum street side setback	10'	10'	10'
H.	Maximum impervious			



~~coverage 50% 55% 60%~~

	<u>Single Family Dwelling</u>	<u>Attached up to 4 unit</u>	<u>Non residential</u>
A. <u>Minimum lot area (square feet)</u>	<u>6,000</u>	<u>6,000/unit</u>	<u>15,000</u>
B. <u>Minimum lot width</u>	<u>50 feet</u>	<u>100 feet</u>	<u>100 feet</u>
C. <u><sup>1</sup>Minimum front yard</u>	<u>20 feet</u>	<u>20 feet</u>	<u>20 feet</u>
D. <u>Minimum side yard</u>	<u>8 feet</u>	<u>10 feet</u>	<u>10 feet</u>
E. <u>Minimum rear yard</u>	<u>25 feet</u>	<u>25 feet</u>	<u>25 feet</u>
F. <u>Minimum Yard Abutting Tidelands</u>	<u>0 feet</u>	<u>0 feet</u>	<u>0 feet</u>
G. <u>Maximum site impervious coverage</u>	<u>50 %</u>	<u>55%</u>	<u>70%</u>
H. <u><sup>2</sup>Maximum Density</u>	<u>3.5 dwelling units per acre</u>		

<sup>1</sup>In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line, provided such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties in the opinion of the planning and public works directors. An undersized lot or parcel shall qualify as a building site if such lot is a lot of record. An undersized lot shall qualify as a building site if such lot is a lot of record at the time this chapter became effective. Recognizing the existence of such parcels, the development standards are adjusted to grant relief as to minimum lot size and minimum lot width only. (Ord. 598 § 2, 1991).

<sup>2</sup>Density bonus of up to 30 % may be granted subject to the requirements of Section 17.96 (Planned Residential District).

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17.50.050 Site plans.

Before a building permit will be issued in a waterfront commercial district, the site plan review process specified in Chapter 17.96 GHMC shall be followed. Residential projects containing less than three or fewer dwelling units are exempt from this provision. (Ord. 573 § 2, 1990).

17.50.060 Height.

A. The maximum building height is 16 feet, ~~except as provided for under Chapter 17.62 GHMC.~~ Additional height of up to 24 feet may be permitted if two additional waterview/access opportunities are provided and the following criteria are met:

\*\*\*

Section 28. Section 17.62 is hereby amended as follows:

Chapter 17.62  
HEIGHT OVERLAY DISTRICT RESTRICTION AREA

Sections:

- 17.62.010 Intent.
- 17.62.020 Map adopted.
- 17.62.030 Standards.
- 17.62.040 Amendments to the Height Restriction Area Map

17.62.010 Intent.

The purpose of this ~~district~~height restriction area is to establish standards for those properties ~~and zoning districts~~ located ~~outside~~ inside the Gig Harbor view basin where ~~greater~~ decreased building height ~~may be allowed~~ shall be required. This is intended to ~~be a limited height so as not to restrict zone~~ where views from adjacent properties ~~will not be adversely affected~~. (Ord. 537 § 1, 1988).

17.62.020 Map adopted.

The standards of this section shall be an map overlay zone and ~~are~~ is supplementary to the regulations prescribed by the underlying zones. The application of said standards shall pertain to those properties designated on the official zoning ~~map dated March 8, 1988~~. (Ord. 537 § 1, 1988).

17.62.030 Standards.

The maximum height for ~~residential structures containing three or fewer units~~ shall be 25 feet. ~~The maximum height of commercial structures or residential structures containing four or more units shall be 35~~ 16 feet, except as otherwise may be provided in a planned community development, planned unit development, or a planned residential development. (Ord. 537 § 1, 1988).

17.62.040 Amendment to Height Restriction Area Map

The procedures established under Section 17.10 for the consideration of amendments to the zoning district map shall be followed for amendments to the height restriction area map. The city council shall consider the findings and conclusions of the hearing examiner's report on any proposed amendment to the height restriction area map. Such report shall be based upon the following criteria:

- A. That the request to amend the height restriction area map furthers the goals, policies and objectives of the comprehensive plan.
- B. The property or area proposed for exclusion from the height restriction area map does not currently possess a view of Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows.
- C. The gradient of the land within 100 feet of the property or area does not have a slope of 5% or greater toward Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows.
- D. That views from adjacent properties will not be adversely affected.

Section 29. Section 17.66 is hereby amended as follows:

17.66.020 Variances.

A. Administrative Variances. Upon the filing of a proper application, the planning director shall have the authority to grant, with conditions if necessary, an administrative variance from the following property development standards:

1. A decrease of not more than 20 percent of the required width of a side, front or rear yard or yard between buildings;
2. An increase of not more than 10 percent of the permitted projection of cornices, sills, eave projections, fences or structures, maximum permitted lot coverage, unenclosed awnings and unenclosed and uncovered decks into a required front, side or rear yard;
3. An increase of not more than ~~10~~ 5 percent in the maximum permitted height of a buildings ;
4. A decrease of not more than 10 percent in the number of required parking spaces.

B. Required Findings to Grant. Each administrative variance granted shall be supported by written findings as follows: ~~showing an affirmative determination of the variance review criteria contained in GHMC 17-66-030B.~~

1. The variance will not compromise the intent of the comprehensive plan nor be inconsistent with the goals, policies and objectives of the comprehensive plan;
2. The variance is an immediate remedy to a condition not readily apparent during the construction of a structure and which, if permitted, would not result in any significant adverse impacts to adjacent properties or structures;
3. A strict application of the standards would impose an unreasonable hardship upon the applicant or property owner;
4. The need for the variance is not the result of the deliberate actions of the applicant or property owner;
5. The variance does not create health and safety hazards .

C. Planning Director Action. Upon the filing of a properly completed application, the director shall, within fifteen working days, act to approve, modify or deny the application. If approved, the director shall send notice of the decision to the owners of all adjacent properties. The decision shall become final ~~145~~ working days after taking an action on the application unless an appeal is filed with the planning department prior to the ~~fifteenth~~ fourteenth day. Any appeal of an administrative variance shall be considered by the hearing examiner. (Ord. 573 § 2, 1990).

Section 30. Section 17.68 is hereby amended as follows:

\*\*\*

17.68.010 Intent.

A. Within the zoning districts established by this title or any amendment that may later be adopted, there may exist lots, structures, uses of land and structures, and characteristics of use

that were lawful before the effective date of the applicable regulations, but that would be prohibited, regulated, or restricted under the terms of ~~Chapter Title 17-04~~ of the GHMC or a future amendment thereof. This chapter is intended to permit these nonconformities to continue until they are removed but not to encourage their perpetuation. It is further intended that nonconformities shall not be enlarged upon, expanded, extended or be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

\*\*\*

17.68.040 Nonconforming structures.

When a lawful structure existed at the effective date of the adoption or an amendment of the applicable regulations and could not be built under the terms of the current regulations set forth in GHMC Title 17, or amendments thereof, by reason of the restrictions on area, lot size or dimension, coverage, height, yards and the location on the lot or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful and shall be subject to the following provisions:

A. No such nonconforming structure may be altered in any way that increases its nonconformity respectively to bulk or dimensional standards in effect ~~or enlarges any of its dimensions~~, but any structure or portion thereof may be altered to decrease its nonconformity;

\*\*\*

17.68.050 Repairs and maintenance.

A. Repairs may be made to any nonconforming structure or any portion of a structure containing a nonconforming use; provided, they are restricted to the repairs or replacement of structural elements, fixtures, wiring and plumbing required so as to protect occupants and public safety. The need for such repairs or replacements shall be confirmed by the building official.

B. Nothing in this chapter shall be deemed to prevent the strengthening or restoration to a safe condition of any ~~building~~ building or part thereof declared to be unsafe by any official charged with protecting the public safety and upon the order of such official. (Ord. 573 § 2, 1990)

Section 31. Section 17.72 is hereby amended as follows:

17.72.020 Off-street parking design standards.

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C. All off-street parking spaces shall be at least ~~nine~~ eight feet in width and at least ~~19~~ eighteen feet in length, both exclusive of access drives, yards, and ramps. Such spaces shall have a vertical clearance of at least seven feet. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, provided that the parking space so created contains within it the rectangular area required by this section. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking:

	Parking Angle
--	---------------

Aisle Width	0°	30°	45°	60°	90°
One Way →	12'	12'	15'	18'	20'
Two Way →	19'	20'	21'	23'	24'

Driveways shall not be less than 12 feet in width for one way traffic and 20 feet in width for two-way traffic.

D. Off-street parking spaces may be located in any required yard unless otherwise indicated in ~~Chapter 17.72~~ in Title 17 of the GHMC.

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17.72.030 Number of off-street parking spaces required.

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J. For drive-through carwashes or quick service lubrication facilities, two parking spaces per service bay plus one space for every two employees. In addition, a stacking lane or lanes capable of accommodating a minimum of ten (10%) percent of the projected maximum hourly throughput of vehicles for the car wash shall be provided near the entrance to the car wash bay(s). One car length within the stacking lane shall be equal to the length of a standard parking stall.

\*\*\*

17.72.060 Joint Use of Required Parking Spaces for the Downtown Business (DB) and the Waterfront Commerical (WC) Districts.

A. One parking area may contain required spaces for several different uses. Except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use which will require parking space simultaneously.

B. To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the spaces may be credited to both uses.

C. Joint use of parking as specified under this section shall be by written agreement between the developments using the parking facilities. The agreement shall be subject to the approval of the City. Said agreement shall be filed with the Pierce County Auditor as a covenant running with the land and is deemed binding between the assenting parties.

D. Parking areas shall be clearly marked as reserved for the contracted tenant, including the hours of available occupancy.

E. The parking agreement shall have a minimum term of five years. Prior to expiration of the agreement, the property owner shall notify the City of the termination of the agreement. The business affected by the agreement shall secure off-street parking sufficient to meet the required parking for the use. The portioned share of the use lacking required parking shall cease to be used until such time that some or all of the required parking is available for use by the business.

17.72.070 Special Provisions for Lots With Existing Buildings in the Downtown Business District

Notwithstanding any other provisions of this chapter, whenever (i) there exists a lot with one or more structures on it constructed before the effective date of this chapter, and (ii) a change in use does not involve any enlargement of a structure proposed for such lot, and (iii) the parking requirements of this section as applicable under the proposed changes cannot be satisfied on such lot because there is insufficient area available on the lot that can practicably be used for parking, the parking standards for this section may be reduced if parking is practicably available within two hundred feet of the site, either as public parking and/or joint-use parking on private property.

Section 32. Section 17.78 is hereby amended as follows:

\*\*\*

17.78.020 Applicability.

The standards as required by this chapter shall apply to all ~~nonresidential and nonagricultural~~ uses of land which are subject to site plan review, to the construction or location of any multifamily structure of three or more attached dwelling units and to any new subdivision plat. (Ord. 652 § 5, 1993; Ord. 573 § 2, 1990).

\*\*\*

17.78.050 Preservation of significant trees.

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B. Significant Trees. Significant trees are those which possess one or more of the following characteristics:

1. Contribute to the character of the area and do not constitute a safety hazard; or
2. Form a continuous canopy or dense ~~buffer~~ vegetated screen;
3. If the grade level adjoining a tree to be retained is to be ~~raised~~ 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. Proof of professional design may be required;
4. The applicant may install impervious or compactible surface within the area defined by the drip line of any tree to be retained if it is demonstrated by a qualified arborist that such activities will not endanger the tree or trees.

C. Other Existing Vegetation. Retention of other existing vegetation for landscaping is strongly encouraged; however, it must be equal to or better than available nursery stock. (Ord. 573 § 2, 1990).

D. Areas of native vegetation which are designated as landscape or buffers areas shall be subject to a ten (10) foot wide no-construction zone and shall be protected by a temporary perimeter fence. Clearing, grading or contour alteration is not permitted within this no-construction area unless a qualified arborist provides written documentation that proposed construction activity within the 10 foot set-back will not harm nor existing vegetation within the designated landscape or buffer area.

17.78.070 Requirements for commercial uses.

A. Perimeter Areas.

1. Notwithstanding other regulations found in this chapter, perimeter areas not covered with buildings, driveways and parking and loading areas shall be landscaped. The required width of perimeter areas to be landscaped shall be the required yard or setback area or a 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.

\*\*\*

17.78.080 Parking lot landscaping and screening.

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C. Downtown Parking Lots. For parking lots located within the downtown area, the following standards apply:

1. Provision of a minimum of five-foot-wide landscaping strip intended to screen and soften the visual impacts of parking lots. Screening may be accomplished through any of the methods described under subdivision 2 of subsection A of this section. In addition to screening, street trees a minimum of two-inch caliper shall be provided at 20-foot intervals.

2. In those instances where parking areas are bordered by more than one street, the strip required in subdivision 1 of this subsection shall only apply to the longest side. All other sides must be screened with a wall, fence, vegetative buffer or combination of these elements at a minimum height of three and one-half feet. The street tree requirements will pertain.

3. In order to protect vision clearances, areas around driveways and other access points are not required to comply with the full screening height standards. The specific horizontal distance exempt from this standard shall be ~~determined after consultation with the public works department~~ as established in the City of Gig Harbor Public Works Standards.

4. Trees Required. Trees are required at a ratio of at least one per 64 square feet of landscaped area or fraction thereof. They shall have a clear trunk to a height of at least five feet above the ground at maturity. Trees shall be planted no closer than four feet from pavement edges where vehicles overhang planted areas.

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17.78.090 Screening/buffering from SR-16, the Tacoma City Light Right-of -Way and SR-16 interchanges.

A. All development of properties adjacent to SR-16, the Tacoma City Light Right-of-Way 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 25 feet in depth. Along SR-16 and the Tacoma City Light Right-of-Way, outside of the defined interchange areas, this buffer shall be adequate to totally screen development from views from SR-16. If existing vegetation is not

adequate to accomplish this, then additional evergreen vegetation with a minimum height of four to six feet shall be planted.

and of a species that will grow to the height of the buildings in the development. If possible, evergreen trees shall be retained to meet this requirement. (Ord. 573 § 2, 1990).

\*\*\*

17.78.110 Performance assurance.

A. Landscaping required pursuant to an approved site plan shall be installed prior to the issuance of certificate of occupancy or final inspection, unless the property owner submits a performance assurance equal to not less than 110% of a contractor's bid-price and which commitments to install the landscaping within one year.

Section 33. Section 17.84 is hereby amended as follows:

\*\*\*

17.84.030 General requirements.

The general requirements are:

A. Home occupations shall ~~occupy not more than 30 percent of the total floor area of the residence~~ only be permitted within the principal residential dwelling.

B. The occupation shall be carried on ~~entirely within a residence~~ by the occupant(s) thereof.

C. The occupation shall be conducted in such a manner as to give no outward appearance nor manifest any characteristics of a business, in the ordinary meaning of the term, that would infringe upon the right of the neighboring residents to enjoy a peaceful occupancy of their homes.

D. Point of purchase retail sales are ~~generally discouraged~~ not permitted. ~~Limited stock in trade may be sold or displayed within the structure on the premises, and no equipment or material shall be stored on any exterior portion of the premises.~~

E. Parking of customers' or clients' vehicles shall create no hazard or unusual congestion. The home occupation shall not generate traffic volumes greater than what would normally be expected in a residential neighborhood. Parking shall be provided in conformance with Chapter 17.72 GHMC.

F. ~~Any signs utilized in the home occupation shall be limited to one flush-mounted sign on the main residential structure which shall not exceed two square feet in area. Such sign shall be unlit and shall use nonflashing, nonreflective materials, and the legend shall show only the name of the occupant and type of occupation. Colors shall be subdued and consistent with residential character. Signs shall not be permitted.~~

Section 34. Section 17.89 is hereby amended as follows:

17.89.020 Where permitted.

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



- A. All residential districts (~~R-1, R-2, R-3~~);
- B. Waterfront Residential (WR) and Waterfront Millville (WM).

17.89.030 Types of uses permitted.

The following uses are permitted in a PRD zone:

- A. ~~All Single-family detached dwellings and up to four-unit attached structures as defined in Chapter 17.04 GHMC~~ in R-1 districts;
- B. All single-family and multifamily dwellings as defined in Chapter 17.04 GHMC in R-2 and R-3 districts;
- C. Accessory uses;
- D. Uses that may be allowed by conditional use permits in the underlying zoning subject to the requirements of Chapter 17.64 GHMC. (Ord. 573 § 2, 1990).

\*\*\*

17.89.070 Procedure for approval of a planned residential development project.

The following are the procedures for approval of a PRD project:

~~A. Approval of a PRD shall be considered an amendment to the official zoning map and except as provided by this chapter, shall be processed as any other amendment with respect to notice, hearing and appeals. Prior to making application, the proponent may meet with the city staff for an initial discussion of the proposal and applicable policies, ordinances and standards.~~

~~A.B.~~ The preliminary development plan shall be reviewed by the hearing examiner. The ~~action of the examiner shall constitute a recommendation to the city council.~~ The hearing examiner shall not recommend approval of the PRD unless it is determined that the plan complies with the policies of the comprehensive plan, the requirements of this title and the intent and provisions of this chapter. The examiner may ~~recommend~~ develop terms and conditions of approval. The approved preliminary plan or subsequent revision thereto shall be binding as to the general intent and layout of roads, buildings, use of land and open spaces.

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

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

\*\*\*

17.89.120 Expiration and extensions.

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

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

17.89.130 Minor and major ~~adjustments~~ amendments of the final plan.

A. Minor ~~adjustments~~ amendments may be made and approved when a building permit is issued. Any such alteration must be approved by the planning director. Minor adjustments are those which may affect the precise dimensions or siting of buildings (i.e., lot coverage, height, setbacks) but which do not affect the basic character or arrangement and number of buildings approved in the plan, nor the density of the development or the amount and quality of open space and landscaping. Such dimensional adjustments shall not vary more than ~~10~~ five (5) percent from the original.

B. Major amendments are those which substantially change the character, basic site design, density, open space or other requirements and conditions of the final plan. When a change constitutes a major amendment, no building or other permit shall be issued without prior review and recommendation by the hearing examiner ~~and approval by the city council~~ of such amendment. (Ord. 573 § 2, 1990).

Section 35. Section 17.90 is hereby amended as follows:

\*\*\*

17.90.010 Intent.

The intent of planned unit developments is to allow ~~and make possible~~ greater flexibility in the design of a development, more variety and diversification in the relationships between buildings, open spaces and uses, and to encourage the conservation and retention of historical and natural topographic features while meeting the ~~purposes~~ goals, policies and objectives of the comprehensive plan. To accomplish this purpose, the underlying district regulations such as, but not limited to, ~~setback lines~~ minimum yards, density, uses, and height and bulk of buildings may be varied; provided, however, such variances shall not ~~conflict~~ compromise the overall intent of with the comprehensive plan ~~and nor significantly impact~~ existing uses, nor create adverse environmental effects. A planned unit development may be allowed in any district. (Ord. 573 § 2, 1990).

17.90.020 Approval of planned development.

The city council, ~~after receiving recommendations from the hearing examiner, shall approve, approve with conditions, or disapprove proposed planned unit developments subject to a public hearing and the provisions of this chapter. Changes in a proposed planned unit development including use, expansion of continuation of site area or alteration of structures shall not be allowed unless all regulations in this chapter are complied with including this approval procedure.~~ (Ord. 573 § 2, 1990).

17.90.030 Parcel characteristics.

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

A. An unusual physical, natural resource or topographical feature of importance exists on the site or in the neighborhood which can be conserved and still leave the applicant equivalent use of the land by the use of a planned unit development; or,

B. The property or its neighborhood has a historical character of importance to the community that will be protected by use of a planned unit development; or,

C. The property is adjacent to or across the street from property which has been developed or redeveloped under a planned unit development, and a planned unit development will contribute to the maintenance of the amenities and values of the neighboring planned unit development.

(Ord. 573 § 2, 1990).

17.90.040 Requirements.

The use of a planned unit development shall be as follows:

A. All ~~private~~ roads and drives and/or vehicle maneuvering areas shall have an unobstructed width consistent with traffic loads and overall design of the planned unit development. ~~and shall be constructed so that the roadway pavement structure meets city standards.~~ All roads shall be public roads and the configuration and design of such facilities shall be consistent with the ~~approved by adopted policies and standards in~~ of the City of Gig Harbor Public Works director Construction Standards. Private roads within the PUD may be approved by the hearing examiner if the following criteria are met:

1. Physical limitations of the site preclude the possibility of future linkage with existing public roads or proposed public roads which are part of the City's adopted road or transportation plan.

2. The proposed street design, pedestrian access and layout represents a superior design which meets the objectives of the Public Works Standards.

3. A direct and tangible public benefit will accrue from the proposed street design.

B. All provisions for vehicle parking shall be in designated parking areas.

C. Uses at variance with the underlying district shall be compatible with, and no more detrimental than, those uses specifically listed for a district. ~~Mixed uses may be allowed.~~

D. No open area may be accepted as common open space within a planned unit development unless it meets the following requirements:

1. The location, ~~shape,~~ size and character of the common open space is suitable for the planned unit development;

\*\*\*

17.90.060 Approval Procedures and Hearing Examiner Review.

~~A. The following information shall be submitted for hearing examiner and city council review of the preliminary development plans:~~

- ~~1. A copy of the site plan drawn to scale, showing the proposed layout;~~
- ~~2. A landscape plan drawn to scale, showing the location of landscape areas;~~
- ~~3. A written statement by the landowner or his agent setting forth the reasons why this planned unit development would be consistent with the goals and policies of the comprehensive plan.~~

~~A.B. The following information shall be submitted for hearing examiner and city council review and approval of the preliminary final development plan:~~

1. Environmental checklist or environmental impact statement, if required;
2. ~~Twelve~~ Seven copies of a site plan drawn to scale and dimensioned, showing the existing topography at five-foot contour intervals, the proposed layout of structures, off-street parking and loading areas, landscape areas, pedestrian walks, driveways, ornamental lighting, screening, fences and walls;
3. ~~Twelve~~ Seven copies of a landscape plan drawn to scale and dimensioned, showing the location of proposed landscape areas together with varieties and size of plant materials to be used, together with the method of maintenance. Also, other landscape features such as screening, fences, lighting and signing shall be indicated;
4. Copies of architectural drawings or sketches drawn to scale, including floor plan and elevation indicating types of materials and colors to be used may be required;
5. A schedule showing the proposed time and sequence within which the applications for final approval of all sections of the planned unit development are intended to be filed.

~~B.C. Within three years following the approval of the development plan, the applicant shall file with the city council a final development plan containing in final form the information required in the preliminary plan. The hearing examiner-city council may extend the period up to a maximum of one year. If the hearing examiner city council finds that the final development plan is consistent with the preliminary development plan approval, and that all conditions of the preliminary development plan approval have been satisfied, it may approve the final development plan in total or in phases.~~

~~C.D. In granting any planned unit development, the city council hearing examiner may require adequate guarantees of compliance with the final development plan. Such guarantee may be a performance bond or other form of security in an amount sufficient to assure compliance, and may provide that such security be reduced as stages of construction are completed. Alternatively, or in addition to the security, conditions may be imposed requiring other adequate assurances that the structures and improvements will be completed, subject to review and approval as to form by the city attorney, or that the city may, in the event of the applicant's failure to comply, take the~~

steps necessary to assure compliance, including performing the construction or maintenance itself, and levy a lien for all costs thereof against the property. (Ord. 573 § 2, 1990).

17.90.070—Application to be available for public inspection—Amendments to a Planned Unit Development.

~~From the time of the filing of the application until the time of final action by the city council, the application together with all plans and data submitted shall be available for public inspection in the office of the planning director. (Ord. 573 § 2, 1990).~~

Amendments to a planned unit development may be authorized as follows:

A. Minor amendments may be made and approved when a building permit is issued. Any such alteration must be approved by the planning director. Minor adjustments are those which may affect the precise dimensions or siting of buildings (i.e., lot coverage, height, setbacks) but which do not affect the basic character or arrangement and number of buildings approved in the plan, nor the density of the development or the amount and quality of open space and landscaping. Such dimensional adjustments shall not vary more than five (5) percent from the original.

B. Major amendments are those which substantially change the character, basic site design, density, open space or other requirements and conditions of the final plan. When a change constitutes a major amendment, no building or other permit shall be issued without prior review and approval by the hearing examiner of such amendment.

17.90.080 Duration of approval.

Construction on the project must commence within 12 months from the date of final council ~~action~~ approval; otherwise, the approval of the application becomes null and void. (Ord. 573 § 2, 1990).

Section 36. Section 17.96 is hereby amended as follows:

\*\*\*

17.96.030 Site plans and review.

Any use that is subject to the requirements for a site plan review prior to issuance of building permits shall be processed in accordance with the following procedures:

\*\*\*

B. Hearing Examiner Review. The planning director shall assign a date no earlier than two weeks after the date of filing of a complete application for a public hearing before the hearing examiner. The site plans will be forwarded to the examiner who shall consider the approval of the site plans with specific attention to the following:

1. Compatibility with the city's comprehensive plan;
2. Compatibility with the surrounding buildings' occupancy and use factors; and
3. All relevant statutory codes, regulations, ordinances and compliance with the same.

The review and decision of the examiner shall be in accordance with the provisions of Chapter 17.10 GHMC. (Ord. 573 § 2, 1990).

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17.96.050 Contents of application.

Each application for site plan review shall contain the following information:

\*\*\*

E. A topographic map based upon a site survey delineating contours, existing and proposed, at no less than five-foot intervals and which locates existing streams, marshes and other natural features;

F. Site plans drawn to a scale no smaller than one inch equals ~~30~~ fifty (50) feet showing location and size of uses, buffer areas, proposed areas of disturbance or construction outside of the building footprint, yards, open spaces and landscaped areas and any existing structures, easements and utilities;

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

H. A preliminary drainage and stormwater runoff plan;

\*\*\*

17.96.080 Amendments to a site plan.

\*\*\*

B. Major amendments are those which substantially change the character, basic design, density, open space or other requirements and conditions of the site plan. When a change constitutes a major amendment, no building or other permit shall be issued without prior review and ~~recommendation~~ approval by the hearing examiner ~~and approval by the city council of such amendment~~.

Section 37. Section 17.100 is hereby amended as follows:

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17.100.020 Manner of initiation.

Changes in this title may be initiated in the following manner:

\*\*\*

C. Minimum Area. Except for the extension of existing district boundaries, no change in any use district, classification or official zoning map shall be considered if it contains fewer than two acres, ~~as measured without including~~ excluding public streets or alley rights-of-way.

D. Submittal Consideration. The city council shall not consider any proposed amendment to the zoning map that is substantially the same as any other proposed amendment submitted within the previous 12 months which was disapproved. (Ord. 573 § 2, 1990).

17.100.025 Citizen Involvement - Suggestions on Refining or Updating the Comprehensive Plan or Zoning Code.

On an annual basis, the Planning Commission will consider suggestions from residents within the City and its urban growth area (UGA) on refining or updating the comprehensive plan or zoning code. Suggestions will be considered by the Planning Commission if:

- A. It is submitted as a written statement which clearly explains the proposed change or modification to the comprehensive plan or zoning code. If a map change is suggested, a clear representation of the area affected must accompany the written statement.
- B. The suggested modification furthers the goals and policies of the City of Gig Harbor Comprehensive Plan and meets the intent of the Growth Management Act or the Shoreline Management Act and the Regulatory Reform Act.
- C. It furthers the public's health, safety, welfare and interest.
- D. Is submitted by no later than June 1 of each year.

Planning staff shall forward a report and recommendation to the Planning Commission on the suggested modifications or changes. If the Planning Commission finds that a suggested change or modification should be considered as an amendment to the comprehensive plan or zoning code, it shall forward a written recommendation, with findings and conclusions in support of the proposed change(s), to the Gig Harbor City Council, following a public hearing as required under Chapter 19. Any proposed change to the zoning code must meet the criteria as stated in Chapter 17.100.035.

17.100.030 Public hearing and notification.

Public hearings and notifications related thereto shall be accomplished in accordance with the procedures and requirements established pursuant to ~~GHMC 17.01.070~~ Title 19 of the GHMC, ~~except that for amendments to the text of the title, a public hearing shall be conducted by the planning commission.~~ The planning commission's action shall be a recommendation to the city council.

17.100.035 General Criteria for Zoning District Map Amendment.

Requests for amending the zoning district designation of an area shall be based upon the following criteria:

- A. That the request for the zoning district reclassification furthers the goals, policies and objectives of the comprehensive plan;
- B. That the requested zoning district classification will further the public's health, safety and general welfare.
- C. That there has been a change in ~~conditions-circumstances~~, upon which the existing zoning classification is based, sufficient to demonstrate that the current classification does not meet the public's interest. ~~A change in conditions constitutes a substantial and material change which was not anticipated nor foreseen since the adoption of the comprehensive plan or the last area-wide zoning.~~ Evidence of changed circumstance may include but need not be limited to changes in or near the area in economic or market conditions, availability of land, technology, population characteristics, intensity and type of development (but not including changes

permitted in adjacent major institutions), transportation patterns and capacities, parking availability, environmental impacts, and previous zoning changes in and around the area proposed for rezone.

D. That no substantial detrimental effect shall be caused by the granting of the requested reclassification or amendment.

~~17.100.040—Report to the city council.~~

~~The city council shall consider the report and recommendation of the hearing examiner or planning commission on any proposed change or amendment regardless of the manner in which such change is initiated. Such report shall base its conclusion on the following criteria:~~

~~—A. That the request for reclassification furthers the goals, policies and objectives of the comprehensive plan;~~

~~—B. That there has been a change in conditions, upon which the existing zoning classification is based, sufficient to demonstrate that the current classification does not meet the public's interest. A changed condition constitutes a substantial and material change which was not anticipated nor foreseen since the adoption of the comprehensive plan or the last area zoning.~~  
General Criteria for Zoning Text Amendment.

Requests for amending the zoning text shall be based upon the criteria as stated in Section 17.100.035 A, B, and D.

~~—C. That the requested classification will further the public's health, safety and general welfare.~~

17.100.050 Amendment determination.

The city council shall consider a recommendation for change in the boundary of a district or any other recommendation proposing a change in this title together with the report of the planning director and ~~the hearing examiner or~~ planning commission at the city council's next regular meeting after the receipt of such report, and if, from the facts presented by the findings of the report, it is determined that the public health, safety and general welfare would be preserved, and change or amendment is in keeping with the spirit and intent of the comprehensive plan, the city council, by ordinance, shall approve such amendment, supplemental change or reclassification.

Section 38. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 39. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:



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

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Mark E. Hoppen, City Administrator

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

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

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

of the City of Gig Harbor, Washington

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On the \_\_\_\_ day of \_\_\_\_\_, 1995, the City Council of the City of Gig Harbor, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO LAND USE AND ZONING CODE ENFORCEMENT, REPEALING SECTIONS, 16.44, 17.08 AND SECTION 17.58 OF THE GIG HARBOR MUNICIPAL CODE; ADDING A NEW CHAPTER 17.08 ON ENFORCEMENT, VIOLATIONS AND PENALTIES TO THE CITY'S ZONING CODE; ADDING NEW SECTION 17.94 (LAND CLEARING); MAKING REVISIONS TO SECTION 17.01, 17.04, 17.10, 17.12, 17.16, 17.20, 17.24, 17.28, 17.30, 17.32, 17.36, 17.40, 17.46, 17.48, 17.50, 17.62, 17.66, 17.68, 17.72, 17.78, 17.84, 17.88, 17.89, 17.90, 17.96; 17.100; MAKING MINOR CLEAN-UP AMENDMENTS TO DELETE REFERENCES TO ZONING CODE ENFORCEMENT FROM CHAPTER 15.18; AMENDING SECTIONS 15.18.002, 15.18.004, 15.18.006, 15.18.012, 15.18.016, 15.18.018 AND THE TITLE OF CHAPTER 17.08

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 1995.

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

## **Summary of Proposed Changes to the City Subdivision Code Title 16 of the Gig Harbor Municipal Code**

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### **Chapter 16.44 Land Clearing**

This Chapter is repealed and is relocated to the zoning code as Chapter 17.94.

### **NEW Chapter 16.01 - Definitions**

Carries over the definitions from the previous subdivision code and includes updates to reflect changes in the State Subdivision Act (RCW 58.17).

### **NEW Chapter 16.02 - General Provisions**

General provisions section of the subdivision code. States the purpose and authority for the regulation of subdivisions.

### **New Chapter 16.03- Boundary Line Adjustments**

A new Chapter which establishes a procedure and criteria for boundary line adjustments and lot line combinations.

### **NEW Chapter 16.04 - Short Subdivisions**

Revised Chapter which incorporates the procedures and criteria established under state law (RCW 58.17) for the administration of short subdivisions. References the city Public Works construction standards for required improvements. This revised Chapter replaces Chapter 16.40.

### **NEW Chapter 16.05 Preliminary Plat**

Updates the procedures for processing preliminary plats consistent with the state subdivision act (RCW 58.17) and the Regulatory Reform Act of 1995.

### **NEW Chapter 16.06 - Final Plat**

Updates this Chapter for compliance with the state subdivision act (RCW 58.17), the Growth Management Act (RCW 36.70A) and the Regulatory Reform Act of 1995.

### **NEW Chapter 16.07 - Vacation of Subdivision; Alteration of a Subdivision**

New Chapter which establishes the procedure and criteria for the vacation of a plat and alteration of a subdivision, in compliance with the state subdivision act (RCW 58.17).

### **NEW Chapter 16.08 - General Requirements for Subdivision Approval**

New chapter which establishes the requirements for approval of a subdivision, consistent with the State Subdivision Act, RCW 58.17. References the City Public Works Construction Standards.

**NEW Chapter 16.09 - Enforcement and Appeals**

Updates this Chapter for compliance with the state subdivision act, the updated review procedures established for the Hearing Examiner and the requirements of the Regulatory Reform Act of 1995.

**NEW Chapter 16.10 - Mobile/Manufactured Home Park and Subdivision Standards**

A new Chapter which establishes criteria and performance standards for the siting of mobile/manufactured home parks and subdivisions.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO SUBDIVISIONS OF LAND, REPEALING TITLE 16 OF THE GIG HARBOR MUNICIPAL CODE, AND ADOPTING A NEW TITLE 16 TO THE GIG HARBOR MUNICIPAL CODE TO APPLY TO ALL SUBDIVISIONS AND DIVISIONS OF LAND IN THE CITY, DESCRIBING THE PROCEDURES FOR APPLICATIONS, REVIEW, APPROVAL, CONDITIONING ENFORCEMENT AND PENALTIES FOR VIOLATIONS, AND ADOPTING REGULATIONS FOR SITING AND DEVELOPMENT OF MOBILE HOME PARKS.

WHEREAS, the city subdivision code is derived from the State Subdivision Act, chapter 58.17 of the Revised Code of Washington ("RCW"), and any differences are matters of purely local concern; and

WHEREAS, the Regulatory Reform Act (Chapter 347, Laws of 1995) requires that subdivision applications be processed according to a new statutory framework for project permitting; and

WHEREAS, Section 429 of Chapter 347, Laws of 1995 allows the City Council to delegate its authority to make final decisions on subdivision approvals; and

WHEREAS, the Growth Management Act requires that local government planning under the act must adopt development regulations which implement adopted comprehensive plans; and

WHEREAS, the current subdivision code has not been updated nor revised since its adoption in 1966; and

WHEREAS, the state subdivision act, Section 58.17 RCW, has also undergone substantial revisions which are not reflected in the current subdivision code;

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

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Section 1. Title 16 of the Gig Harbor Municipal Code is hereby repealed.

Section 2. A new Title 16 is hereby added to the Gig Harbor Municipal Code, to read as follows:

TITLE 16  
SUBDIVISIONS

CHAPTER 16.01  
DEFINITIONS

16.01.010	Block
16.01.020	Dedication
16.01.030	Final Plat
16.01.040	Lot
16.01.050	Preliminary Plat
16.01.060	Plat
16.01.070	Short Plat
16.01.080	Short Subdivision
16.01.090	Subdivision

**Definitions.** As used in this title, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this Section shall have the indicated meanings:

16.01.010 "Block" is a group of lots, tracts, or parcels within well defined and fixed boundaries.

16.01.020 "Dedication" is the deliberate appropriation of land or rights in land by its owner for any general and public use, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public use to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat or short plat showing the dedication thereon; and the acceptance by the public shall be evidenced by the approval of such plat for filing by the City.

16.01.030 "Final plat" is the final drawing of the subdivision and dedication prepared for filing of record with the Pierce County auditor, and containing all elements and requirements set forth in Chapter 16.09 GHMC.

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16.01.040 "Lot" is a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

16.01.050 "Preliminary plat" is a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and other elements of a subdivision consistent with the requirements of this title. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

16.01.060 "Plat" is a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.

16.01.070 "Short plat" is the map or representation of a short subdivision.

16.01.080 "Short subdivision" is the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership into four or fewer lots.

16.01.090 "Subdivision" is the division or redivision of land into five or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, except as provided in GHMC 16.02.

## CHAPTER 16.02 GENERAL PROVISIONS

16.02.001	Short Title
16.02.002	Purpose
16.02.003	Authority
16.02.004	Scope
16.02.005	Exemptions
16.02.006	Effect of Filing a Complete Application

16.02.001 Short Title. The ordinance codified in this title shall be known as the Gig Harbor subdivision code.

16.02.002 Purpose. The purpose of this chapter is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state to prevent the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe

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and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage, utilities, drainage, parks and recreation areas, sites for schools and school grounds and other public requirements; to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning standards and local plans, minimum development standards and policies; to adequately provide for the housing and commercial needs of the citizens of the state; and to require uniform monumenting of *land subdivisions and conveyancing by accurate legal description.*

16.02.003 Authority. The Gig Harbor City Council delegates the responsibility for making final determinations on boundary line adjustments and short plats to the Planning Director, or his or her designee. The Hearing Examiner shall have the authority to make final decisions on preliminary plats, plat alterations, plat vacations and final plats.

16.02.004 Scope. Any division, redivision, platting or subdivision or any division of land containing a dedication of any part thereof to any public purpose (such as a public street or a highway), shall comply with the provisions of this title.

16.02.005 Exemptions. This title shall not apply to divisions and activities described in RCW 58.17.040; PROVIDED THAT, in order to determine whether a boundary line adjustment meets the requirements for an exempt action, approval must be received from the Director as set forth in Section 16.03.001.

### 16.02.006 Effect of Filing Completed Application.

A. A proposed division or subdivision of land, as defined in GHMC Section 16.01.090, shall be considered under the subdivision code; and zoning or other land use control ordinances in effect at the time a fully completed application for preliminary plat approval or short plat approval of the subdivision, has been submitted to the Director.

B. The limitations imposed by this section shall not restrict conditions imposed under the State Environmental Policy Act ("SEPA"), chapter 43.21C RCW, and the City's SEPA regulations, chapter 18.04 GHMC.

## CHAPTER 16.03 BOUNDARY LINE ADJUSTMENTS

16.03.001 Requirements for a Complete Application  
16.03.002 Type of Application



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## 16.03.003 Criteria for Approval

16.03.001 Requirements for a Complete Application. An applicant for a boundary line adjustment shall submit five (5) copies of the following:

- A. A map at a scale of not less than one inch equal to one hundred feet which depicts the existing property configuration, including all lot line dimensions.
- B. A map which depicts the proposed property configuration, including all lot line dimensions.
- C. A legal description of the existing property configuration and proposed property configuration, prepared by a licensed professional land surveyor.
- D. Completed application form, as described in Section \_\_\_\_.

16.03.002 Type of Application. A boundary line adjustment is a Type I application, and the Director makes the final decision. The application shall be processed as set forth in Section \_\_\_\_ of this Code.

16.03.003 Criteria for Approval. The Director shall approve an application for a boundary line adjustment if it is determined that:

1. No additional lot, tract, parcel, site or division will be created by the proposed adjustment;
2. No lot is created or modified which contains insufficient area and dimensions to meet the minimum requirements of the zone in which the affected lots are situated;
3. No lot is created or modified which does not have adequate drainage, water supply and sanitary sewage disposal, and access for vehicles, utilities and fire protection, and no existing easement in favor of the public is rendered impractical to serve its purpose; and
4. The boundary line adjustment is consistent with the applicable provisions of the City's Zoning Code.

## CHAPTER 16.04 SHORT PLATS

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16.04.001	Requirements for a Completed Application
16.04.002	Type of Application
16.04.003	Criteria for Approval
16.04.004	Findings and Conclusions
16.04.005	Prohibition on Further Division
16.04.006	Time Frame for Approval

### 16.04.001 Requirements for a Complete Application.

- A. Number of Copies: seven (7).
- B. A proposed short plat must include pertinent survey data compiled as a result of a survey made by or under the supervision of a land surveyor registered in the state and engaged in land surveying.
- C. Application Contents: In addition to the requirements for a completed application set forth in Section \_\_.\_\_.\_\_, an applicant for a short plat shall submit the following:
1. a sketch or map using a scale of 100 feet to one inch or larger of the entire contiguous tract owned by the applicant which shall show:
    - a. the owners of adjacent land and the names of any adjacent subdivisions;
    - b. lines marking the boundaries of the proposed lots;
    - c. approximate locations of existing streets and ways or easements for such streets and ways within and adjacent to the tract;
    - d. legal description of the tract and legal descriptions of all proposed lots;
    - e. name and address of the owner(s) of the tract;
  2. certificate giving full and complete description of the lands divided as they appear on the short plat, including a statement that the short subdivision has been made with free consent and in accordance with the desires of the owner(s). If the short plat includes a dedication, the certificate shall also contain the dedication of all streets and other areas to the public, and individual(s), religious society or societies or to any corporation, public or private, as shown on the short plat and a waiver of all claims for

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damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of the road. The certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.

3. all short plats containing a dedication must be accompanied by a title report confirming that the title of the lands as described and shown on the plat is in the name of the owner signing the certificate. Roads not dedicated to the public must be clearly marked on the face of the plat. Any dedication, donation, or grant as shown on the face of the plat shall be considered to all intents and purposes as a quit claim deed to the donee(s), grantee(s) for his, her or their use for the purpose intended by the donors or grantors as aforesaid.

16.04.002 Type of Application. A short plat is a Type II application, and the Director shall make the final decision. The application shall be processed as set forth in Section \_\_\_\_ of this Code.

16.04.003 Criteria for Approval. The Director shall approve the short subdivision and short plat after making a determination:

1. whether the application complies with Chapter 16.08 of this Title, General Requirements for Subdivision Approval.

2. if appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and

3. whether the public interest will be served by the subdivision and dedication.

16.04.004 Findings and Conclusions. The Director shall not approve a short plat and short subdivision unless written findings are made that:

1. the application complies with Chapter 16.08;

2. appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation,

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playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions who walk to and from school; and

3. the public use and interest will be served by the platting of such subdivision and dedication.

D. **Construction of Improvements.** An approved short plat shall not be filed for record until the applicant has constructed or bonded for all improvements required by the Director in the final decision on the short plat, pursuant to Section 16.04.001(F). (??)

16.04.005 Prohibition on Further Division. Property in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat contains less than four parcels, nothing in this section shall prevent the owner who filed the short plat from filing an alteration within the five year period to create up to a total of four lots within the original short plat boundaries.

16.04.006 Time Frame for Approval. Short plats shall be approved, disapproved or returned to the applicant within thirty days after the date of filing of a complete application, unless the applicant agrees to an extension of time.

### CHAPTER 16.05 PRELIMINARY PLATS

16.05.001	Requirements for a Completed Application
16.05.002	Type of Application
16.05.003	Criteria for Approval
16.05.004	Findings and Conclusions
16.05.005	Time Frame for Approval

#### 16.05.001 Requirements for a Completed Application.

A. Number of copies: ten (10)

B. Application contents: In addition to the requirements for a completed application as set forth in Section \_\_. \_\_. \_\_, an applicant for a preliminary plat shall submit the following:

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1. A map or sketch using a scale of 100 feet to one inch or larger, showing:

a. topographical and other data depicting:

(1) boundary lines including bearing and distance;

(2) easements, including location, width and purpose;

(3) streets on and adjacent to the tract, including name and right-of-way width and location; type, width and elevation of surfacing, walks, curbs, gutters, culverts, etc;

(4) ground elevations on the tract, based on a datum plane approved by the city engineer; for land that slopes less than approximately two percent, show spot elevations at all breaks in grade, along all drainage channels or swales, and all selected points not more than one hundred feet apart in all directions; for land that slopes more than approximately two percent, either show contours with an interval of not more than five feet if ground slope is regular and such information is sufficient for planning purposes, or show contours with an interval of not more than two feet if necessary because of irregular land or need for more detailed data for preparing plans and construction drawings;

(5) other conditions on adjacent land, including approximate direction and gradient of ground slope, including any embankments or retaining walls; character and location of buildings, railroads, power lines, towers, and other nonresidential land uses or platted land within three hundred feet (300') of the subject property. Refer to subdivision plat by name, recording date, volume and page number, and show lot size, and dwelling units;

b. utilities on and adjacent to the tract, including location, size and invert elevation of sanitary, storm and combined sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone poles, and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to, and size of nearest ones, showing invert elevation of sewers;

c. other conditions on the tract including watercourses, marshes, rock outcrop;

d. zoning district designations, on and adjacent to the tract;

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e. proposed public improvements, including highways or other major improvements planned by public authorities for future construction on or near the tract;

f. vicinity showing location of the tract;

g. sites, if any, to be reserved or dedicated for parks, playgrounds, or other public uses;

h. sites, if any, for multi-family dwellings, shopping centers, churches, industry or other nonpublic uses exclusive of single-family dwellings;

i. minimum building setback lines;

j. site data, including number of residential lots, typical lot size, and acres in parks, etc.

k. plat name, scale, north arrow and date;

l. typical cross-sections of the proposed grading, roadway and sidewalk;

m. proposed sanitary, stormwater and water systems plan with points of connection, grades and sizes indicated;

2. Title and certificates, including a legal description according to official records in the office of the county auditor; pertinent survey data compiled as a result of a survey made by or under the supervision of a land surveyor registered in the state and engaged in land surveying which contains notation stating acreage, scale, north arrow, datum, bench marks, certification of registered civil engineer or surveyor, date of survey;

3. Draft of proposed covenants, if any.

16.05.002 Type of Application. A preliminary plat is a Type III application. The Hearing Examiner makes a final decision, which is appealable to the City Council.

16.05.003 Criteria for Approval. The Hearing Examiner shall make an inquiry into the public use and interest proposed to be served by the establishment of the subdivision and/or dedication, and shall consider:

1. whether the preliminary plat conforms to Chapter 16.08, General Requirements for Subdivision Approval;

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2. if appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

3. whether the public interest will be served by the subdivision and dedication.

16.05.004 Findings and Conclusions. The Hearing Examiner shall not approve the preliminary plat unless written findings are made that:

1. the preliminary plat conforms to Chapter 16.08, General Requirements for Subdivision Approval;

2. appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

3. the public use and interest will be served by the platting of such subdivision and dedication.

16.05.005 Time Frame for Approval. Preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within ninety days from the date of filing of a complete application, unless the applicant agrees to an extension of such time period; PROVIDED, that if an environmental impact statement is required as provided in RCW 43.21C.030, the ninety day period shall not include the time spent preparing and circulating the environmental impact statement by the local government agency.

## CHAPTER 16.06 FINAL PLATS

16.06.001	Requirements for a Completed Application
16.06.002	Type of Application
16.06.003	Time Frame for Submission of Final Plat
16.06.004	Criteria for Approval

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16.06.005 Effect of Final Plat Approval  
16.06.006 Time Frame for Approval

## 16.06.001 Requirements for a Completed Application.

- A. 5 copies of construction drawings.
- B. Work done by City in connection with the checking, computing and correcting of the plat, and for plan checking, inspecting, and testing as to all plat improvements including water lines, sanitary sewer lines, storm water retention and drainage systems, streets, curbs, gutters and sidewalks.
- C. Application Contents: In addition to the requirements for a completed application set forth in Section \_\_.\_\_.\_\_, the applicant shall submit the following:
  - 1. final plat on reproducible mylar or equivalent, 17" wide by 22" long, scale of 100 feet to 1" or larger (preferred scale 50 feet to one inch). The plat must contain:
    - a. primary control points, approved by the city engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
    - b. tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings, and radii, arcs, central angles of all curves arcs;
    - c. name and right-of-way width of each street or other right-of-way;
    - d. location, dimensions and purpose of any easement;
    - e. tract number to identify each lot or site;
    - f. purpose for which sites, other than residential lots, are dedicated or reserved;
    - g. minimum building setback line on all lots and other sites;
    - h. location and description of monuments by symbol;



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i. reference to plats of adjoining land by their recorded name, date, volume and page number;

j. certification by licensed land surveyor or licensed professional civil engineer substantially in the following form: etc.

k. a certificate giving a full and correct description of the lands divided as they appear on the plat, including a statement that the subdivision has been made with the free consent and in accordance with the desires of the owner(s). If the plat contains a dedication, the certificate shall also contain the dedication of all streets and other areas to the public, and individual(s) religious society or societies or to any corporation, public or private as shown on the plat and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of the road. The certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.

2. every plat containing a dedication filed for record must be accompanied by a title report confirming that the title of the lands as described and shown on the plat is in the name of the owners signing the certificate;

3. an offer of dedication may include a waiver of right of direct access to any street from any property, and if the dedication is accepted any such waiver is effective. Such waiver may be required by the city as a condition of approval. Roads not dedicated to the public must be clearly marked on the face of the plat. Any dedication, donation, or grant as shown on the face of the plat shall be considered to all intents and purposes as a quit claim deed to the donee or donees, grantee or grantees for his, her, or their use for the purpose intended by the donors or grantors as aforesaid;

4. plat name, scale, north arrow, date and legend of symbols.

5. plans and profiles of all utilities and street improvements showing approval of the design by the city engineer.

6. certificate of completion of one of the following alternatives shall accompany the final plat:

a. all improvements have been installed in accord with the requirements of these regulations and accepted by the City upon the recommendation of the city engineer as certified by the city clerk;

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b. that approved plans are on file with the city engineer for all required utilities and street improvements and a cash or surety bond as provided in chapter 16.28 GHMC has been posted with the city clerk and deposited with the city treasurer.

16.06.002 Type of Application. A final plat is a Type III application, and the Hearing Examiner makes the final decision. Applications shall be processed as set forth in Section 19.02 of this Code.

16.06.003 Time Frame for Submission of Final Plat. A final plat meeting all requirements of chapter 58.17 RCW and this Title 16 shall be submitted to the City for approval within five years of the date of preliminary plat approval.

16.06.004 Criteria for Approval. A final plat application shall be approved if the subdivision proposed for approval:

1. meets all general requirements for plat approval as set forth in Chapter 16.08 of this Title, General Requirements for Subdivision Approval;
2. conforms to all terms of the preliminary plat approval; and
3. meets the requirements of chapter 58.17 RCW, other applicable state laws, this Title 16 and any other applicable City ordinances which were in effect at the time of preliminary plat approval.
4. the Hearing Examiner shall make written findings of fact relating to its decision on the final plat, and if approved, shall suitably inscribe and execute its written approval on the face of the plat.

16.06.005 Effect of Final Plat Approval. Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of five years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of five years after final plat approval unless the City Council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

16.06.006 Time Frame for Approval. Final plats shall be approved, disapproved or returned to the applicant within thirty (30) days after the filing of a complete application, unless the applicant consents to an extension of such time period.

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CHAPTER 16.07  
PLAT VACATION AND ALTERATION

16.07.001	Requirements for a Complete Plat Vacation Application
16.07.002	Type of Approval and Criteria for Approval of a Plat Vacation
16.07.003	Requirements for a Complete Plat Alteration Application
16.07.004	Type of Approval and Criteria for Approval of a Plat Alteration

16.07.001 Requirements for a Complete Plat Vacation Application.

A. Application contents: In addition to the requirements for a completed application as set forth in Section \_\_. \_\_. \_\_, an applicant for a plat vacation shall submit the following:

1. the reasons for the proposed vacation;
2. signatures of all parties having an ownership interest in that portion of the subdivision proposed to be vacated;
3. if the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof.
4. A copy of the approved plat sought to be vacated, together with all plat amendments recorded since the date of the original approval.

16.07.002 Type of Approval and Criteria for Approval of a Plat Vacation.

A. Type of Application. A plat vacation is a Type III application, the Hearing Examiner shall render the final decision, which is appealable to the City Council.

B. Criteria for Approval. The plat vacation may be approved or denied after a written determination is made whether the public use and interest will be served by the vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the City, shall be deeded to the City unless the City Hearing Examiner shall set forth findings that the public use would not be served in retaining title to those lands.

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C. Vacation of Streets. When the vacation application is specifically for a city street vacation, the City's street vacation procedures shall be utilized. When the application is for the vacation of a plat together with the streets, the procedure for vacation in this section shall be used, but vacations of streets may not be made that are prohibited under chapter 35.70 RCW or the City's street vacation ordinance.

D. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.

### 16.07.003 Requirements for a Complete Plat Alteration Application.

A. Application Contents: In addition to the requirements for a completed application as set forth in Section \_\_.\_\_.\_\_, an applicant for a plat alteration shall submit the following:

1. signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites or divisions in the subject subdivision or portion to be altered;
2. if the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.
3. a copy of the approved plat sought to be vacated, together with all plat amendments recorded.

### 16.07.004 Type of and Criteria for Approval of a Plat Alteration.

A. Type of Application. A plat alteration is a Type III application. The Hearing Examiner shall render the final decision, which is appealable to the City Council.

B. Criteria for Approval. The plat alteration may be approved or denied after a written determination is made whether the public use will be served by the alteration of the subdivision. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots,

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parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties. A plat alteration must also be consistent with Section 16.07.002(D) herein.

C. Revised Plat. After approval of the alteration, the City Council shall order the applicant to produce a revised drawing of the approved alteration of the final plat or short plat, which after signature of the Mayor, shall be filed with the County auditor to become the lawful plat of the property.

## CHAPTER 16.08 GENERAL REQUIREMENTS FOR SUBDIVISION APPROVAL

16.08.001	General Requirements for Approval of Subdivision
16.08.002	Certificate to Accompany Final Plat or Short Plat
16.08.003	General Requirements for Filing Final Plat for Record
16.08.004	Compliance with City's Public Works Standards

16.08.001 General Requirements for Approval of Subdivisions. In addition to the criteria for approval applicable to an individual application, all subdivisions must meet the following general requirements in order to be approved:

A. Zoning. No subdivision may be approved unless written findings of fact are made that the proposed subdivision or proposed short subdivision is in conformity with any applicable zoning ordinance, comprehensive plan or other existing land use controls.

B. Dedications, generally.

1. An offer of dedication may include a waiver of right of direct access to any street from any property, and if the dedication is accepted, any such waiver is effective. The City may require such waiver as a condition of approval.

2. Roads not dedicated to the public must be clearly marked on the face of the plat.

3. Any dedication, donation or grant as shown on the face of the plat shall be considered to all intents and purposes, as a quitclaim deed to the said donee(s) grantee(s) for his/her/their use for the purpose intended by the donor(s) or grantor(s).

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4. If the plat or short plat is subject to a dedication, the certificate or a separate written instrument shall contain the dedication of all streets and other areas to the public, and individual(s), religious society(ies) or to any corporation, public or private, as shown on the plat or short plat, and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said road. Said certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat.

5. Every plat and short plat containing a dedication filed for record must be accompanied by a title report confirming that the title of the lands as described and shown on said plat is in the name of the owners signing the certificate or instrument of dedication.

6. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 8.02.090 may be required as a condition of subdivision approval. No dedication, provision of public improvements or impact fees imposed under RCW 82.02.050 through 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property.

C. Dedication of Public Park. If the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated that the park be named in honor of a deceased individual of good character, the City Council shall adopt the designated name.

D. Release from Damages. The Hearing Examiner shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners.

E. Flood, Inundation or Swamp Conditions. A proposed subdivision may be disapproved because of flood, inundation, or swamp conditions. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat. No plat shall be approved covering any land situated in a flood control zone as provided in chapter 86.16 RCW without the prior written approval of the state department of ecology.

F. Bonds. In lieu of the completion of the actual construction of any required improvements prior to the approval of a short or final plat, the Director, City Engineer or City Council may accept a bond, approved as to form by the City Attorney, in an amount

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and with surety and conditions satisfactory to it, or other secure method, providing for and securing to the City the actual construction and installation of such improvements within a period specified by the City and expressed in the bonds. In addition, the City may require the posting of a bond securing to the City the successful operation of improvements for up to two years after final approval. All bonded improvements shall be designed and certified by or under the supervision of a registered civil engineer prior to the acceptance of such improvements. The City may accept a cash set-aside agreement in lieu of a bond.

16.08.002 Certificate to accompany final plat or short plat. Every final plat or short plat of a subdivision or a short subdivision filed for record must contain a certificate giving full and correct description of the lands divided as they appear on the plat or short plat, including a statement that the subdivision or short subdivision has been made with the free consent and in accordance with the desires of the owner(s).

16.08.003 General Requirements for Filing Plat for Record. Each and every plat or replat of any property filed for record shall:

A. contain a statement of approval from the City Engineer as to the layout of streets, alleys and other rights of way, design of bridges, sewage and water systems, and other structures;

B. be accompanied by a complete survey of the section or sections in which the plat or replat is located made to surveying standards adopted by the division of engineering services of the department of natural resources pursuant to RCW 58.24.040. The surveyor shall certify on the plat that it is a true and correct representation of the lands actually surveyed;

C. be acknowledged by the person filing the plat before the auditor of the county in which the land is located, or any other officer who is authorized by law to take acknowledgement of deeds, and a certificate of said acknowledgement shall be enclosed or annexed to such plat and recorded therewith;

D. contain a certification from the proper officer or officers in charge of tax collections that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged;

E. contain a certificate giving a full and correct description of the lands divided as they appear on the plat or short plat, including a statement that the subdivision or short subdivision has been made with the free consent and in accordance with the desires of the owner or owners;

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F. show the permanent control monuments established at each and every controlling corner on the boundaries of the parcel of land being subdivided. The Council (or Hearing Examiner) shall determine the number and location of permanent control monuments within the plat, if any.

G. show the lot numbers and house addresses on the short subdivisions and subdivisions at the time of approval.

16.08.004 Compliance with Public Works Standards. Construction of all improvements in all applications shall comply with the City's adopted public works construction standards.

### CHAPTER 16.09 ENFORCEMENT AND APPEALS

- 16.09.001 Issuance of Permit on Illegally Divided Land
- 16.09.002 Violations
- 16.09.003 Appeals

16.09.001 Issuance of Permit on Illegally Divided Land. No building permit, septic tank permit, or other development permit shall be issued for any lot, tract or parcel of land divided in violation of chapter 58.17 RCW or this Title 16, unless the authority authorized to issue such permit finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice.

16.09.002 Violations. Violations of this Title 16 shall be enforced as set forth in chapter 17.08 "Enforcement," of the Gig Harbor Municipal Code.

16.09.003 Appeals. Any decision approving or disapproving any plat may be appealed as set forth in Chapter 19.05, of the Gig Harbor Municipal Code.

### CHAPTER 16.10 MOBILE/MANUFACTURED HOME PARK AND SUBDIVISION STANDARDS

- 16.10.010 Purpose
- 16.10.020 Definitions
- 16.10.030 Requirements for a Completed Application
- 16.10.040 Type of Approval
- 16.10.050 Siting Criteria
- 16.10.060 Development Standards



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16.10.010 Purpose. The purpose of this chapter is to establish the standards and criteria by which mobile/manufactured home subdivisions and parks may be sited and developed with the City. These standards are deemed necessary to ensure the uniform, coordinated development of the community and to assure the general health, welfare and safety of the occupants of the mobile/manufactured homes that may be located within a subdivision or park developed under these standards.

16.10.020 Definitions. "Mobile/manufactured home park" means a tract of land under single ownership or control upon which two or more mobile/manufactured homes occupied as dwellings may be located.

"Mobile/manufactured home subdivision" means two or more mobile/manufactured homes on separate lots developed under the provisions of GHMC Title 16 where mobile/manufactured homes are permanently installed for residential use on individually owned lots.

"Manufactured Home" means a structure, transportable in one or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

"Mobile Home, or Manufactured Home" means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. This term includes all structures which meet the above requirements and with respect to which the manufacturer voluntarily complies with the standards set forth in Part 3280 by HUD. ~~[Taken from WAC 296-1508-015(28)]~~

16.10.030 Requirements for a Completed Application. In addition to the requirements set forth in Section 19.02 for a completed application, an application must submit the information as described in Section 17.96.

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## 16.10.040 Type of Approval.

A. All mobile home parks shall be processed as a Type III approval, in the same manner as a binding site plan in accordance with the procedures of Chapter 17.96 GHMC.

B. All mobile/manufactured home subdivisions shall be processed in the same manner as subdivisions in this Title 16 GHMC.

16.10.050 Siting Criteria. The following minimum criteria apply to the siting of mobile/manufactured home parks and subdivisions.

### A. Mobile/manufactured home parks

1. Minimum site development area: 5 acres
2. Minimum perimeter buffer: 30 feet of dense, vege-tated screen. feet of dense, vegetated screen.
3. Minimum unit site area: 4,200 square feet.
4. Minimum separation between units: 20 feet.
5. Minimum<sup>1</sup> common open space area: 30 % of gross site area.
6. Maximum density: 6 units per acre.
7. Maximum height: Dependent upon the zoning district standard

### B. Mobile/manufactured home subdivision

1. Minimum site development area: 5 acres.
2. Minimum perimeter buffer: 30 feet of dense vegetated screen.
3. Minimum front yard: 20 feet.
4. Minimum side yard: 7 feet.



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5. Minimum rear yard: 20 feet; 10 feet if the yard is adjacent to the required perimeter buffer.
6. Minimum<sup>1</sup> common open space area: 30 % of gross site area.
7. Maximum density: Dependent upon the zoning district standard.
8. Maximum height: Dependent upon the zoning district standard
9. Maximum impervious coverage: Dependent upon zoning district standard.
10. Minimum unit floor area: 1000 square feet.  
Unit type: Double or triple wide configuration, including modular units.

### 16.10.060 Development Standards

A. Sanitary sewer. All mobile/manufactured home parks and subdivisions shall be connected to the City of Gig Harbor sewer system, in accordance with the standards of the City of Gig Harbor Public Works Standards and the City of Gig Harbor Comprehensive Sewer Plan.

B. Potable water. All mobile/manufactured home parks and subdivisions shall be connected to the City of Gig Harbor water system, in accordance with the standards of the City of Gig Harbor Public Works Standards and the City of Gig Harbor Comprehensive Water Plan.

C. Roads.

1. Private Roads. Roads within a mobile/manufactured home park may be privately owned. Interior roads must have a minimum surface width of twenty- four (24) feet with a rolled edge curve on both sides of the street. Interior roads must meet

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<sup>1</sup> Common open space consists of either an active or passive recreational area accessible and useable to all tenants within the park. Common open space is exclusive of the required perimeter buffers.

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the requirements of the City Uniform Fire Code for emergency vehicle access and must have a minimum easement width of thirty (30) feet.

2. **Public Roads.** Roads within a mobile/manufactured home subdivision must be public streets, meeting the requirements of the City of Gig Harbor Public Works Standards and the City Uniform Fire Code for emergency vehicle access.

D. **Utilities.** All utilities within a park or subdivision which serve individual units must be underground, with the exception of junction boxes and the primary feeder lines serving the property.

E. **Storm Drainage.** All storm drainage facilities shall be designed and installed in accordance with the requirements of the City of Gig Harbor Public Works Construction Standards. Easements for maintenance of public storm water facilities shall be provided as deemed necessary and appropriate by the City Engineer.

F. **Fire Flow.** All mobile/manufactured home parks and subdivisions shall provide the minimum required fire flow as established in the City of Gig Harbor Uniform Fire Code

G. **Wetlands/Critical Areas.** All developments proceeding under this title shall comply with the requirements of Section 18.08 and Section 18.12 of the Gig Harbor Municipal Code.

H. **Accessory Buildings.** Accessory buildings within a mobile/manufactured home park or subdivision are permitted, provided that the maximum site coverage does not exceed thirty (30) percent of the site's open space.

I. **Parking.** Parking shall be as required per Section 17.72 of the Gig Harbor Municipal Code. Additional parking for guests or service parking shall be provided with a grass-crete or asphalt parking surface.

J. **Outdoor Lighting.** Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Such lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise.

K. **Landscaping.** Landscaping shall be as provided in Section 17.78 of the Gig Harbor municipal code for residential subdivisions, excepting that the required depth of the perimeter buffer shall be as specified in this Section.

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

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

\_\_\_\_\_  
MAYOR, Gretchen A. Wilbert

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
CITY CLERK, Mark Hoppen

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

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

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

of the City of Gig Harbor, Washington

On the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_, the City Council of the CITY OF GIG HARBOR, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO SUBDIVISIONS OF LAND, REPEALING TITLE 16 OF THE GIG HARBOR MUNICIPAL CODE, AND ADOPTING A NEW TITLE 16 TO THE GIG HARBOR MUNICIPAL CODE TO APPLY TO ALL SUBDIVISIONS AND DIVISIONS OF LAND IN THE CITY, DESCRIBING THE PROCEDURES FOR APPLICATIONS, REVIEW, APPROVAL, CONDITIONING ENFORCEMENT AND PENALTIES FOR VIOLATIONS, AND ADOPTING REGULATIONS FOR SITING AND DEVELOPMENT OF MOBILE HOME PARKS.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK, Mark Hoppen

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





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

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING NEW ADMINISTRATIVE PROCEDURES FOR THE PROCESSING OF PROJECT PERMIT APPLICATIONS, AS REQUIRED BY THE REGULATORY REFORM ACT, CHAPTER 347, LAWS OF 1995, ADDING A NEW TITLE 19 OF THE GIG HARBOR MUNICIPAL CODE.

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WHEREAS, the Regulatory Reform Act (chapter 347 of the Laws of Washington) requires that the City must establish a permit review process which, among other things: (1) provides for the integrated and consolidated review and decision on two or more project permits relating to a proposed action; (2) combines the environmental review process, both procedural and substantive, with the procedure for the review of project permits; (3) provides for no more than one open record hearing and one closed record appeal on such permits, except for the appeal of a determination of significance; and (4) provides for the issuance of the City's final decision within 120 days after submission of a complete application; and

WHEREAS, the Act also requires that the City adopt such permit review process by March 31, 1996, but provides that the time frames for permit processing shall apply only to project permit applications filed on or after April 1, 1996; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF Gig Harbor, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

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Section 1. A new Title 19 is hereby added to the Gig Harbor Municipal Code, to read as follows:

**TITLE 19  
ADMINISTRATION OF DEVELOPMENT REGULATIONS**

**CHAPTER 19.01  
TYPES OF PROJECT PERMIT APPLICATIONS**

19.01.001	Procedures for Processing Development Permits
19.01.002	Determination of Proper Type of Procedure
19.01.003	Project Permit Application Framework
19.01.004	Joint Public Hearings
19.01.005	Legislative Decisions
19.01.006	Legislative Enactments Not Restricted
19.01.007	Exclusions from Project Permit Process

19.01.001. Procedures for Processing Project Permits. For the purpose of project permit processing, all development permit applications shall be classified as one of the following: Type I, Type II, Type III or Type IV. Legislative decisions are Type V actions, and are addressed in 19.01.005. Exclusions from the requirements of project permit application processing are contained in Section 19.01.007.

19.01.002. Determination of Proper Procedure Type.

**A. Determination by Director.** The Director of the Community Development Department or his/her designee (hereinafter the "Director"), shall determine the proper procedure for all development applications. If there is a question as to the appropriate type of procedure, the Director shall resolve it in favor of the higher procedure type number.

**B. Optional Consolidated Permit Processing.** An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed under the individual

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procedure option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure.

C. **Decision-maker(s).** Applications processed in accordance with subsection (B) of this section which have the same highest numbered procedure but are assigned different hearing bodies shall be heard collectively by the highest decision-maker(s). The city council is the highest, followed by the Hearing Examiner or Planning Commission, as applicable, and then the Director. Joint public hearings with other agencies shall be processed according to Section 19.01.004.

19.01.003 Project Permit Application Framework.

**ACTION TYPE**

<b>PROCEDURE PROJECT PERMIT APPLICATIONS (TYPE I - IV) LEGISLATIVE</b>					
	<b>TYPE I</b>	<b>TYPE II</b>	<b>TYPE III</b>	<b>TYPE IV</b>	<b>TYPE V</b>
Recommendation made by:	N/A	N/A	N/A	Planning Commission	Planning Commission
Final Decision made by:	Admin.	Admin.	Hearing Examiner	City Council	City Council
Notice of Application:	No	No	Yes	Yes	No
Open Record Public Hearing:	No	Only if appealed, open record hearing before Hearing Examiner	Yes, before Hearing Examiner to render final decision	Yes, before Planning Commission to make recommendation to Council	Yes, before Plng. Comm. to make recommendation to Council
Closed record appeal/final decision:	No	No	Only if appealed, then before Council	Yes, before Council to render final decision	Yes, or Council could hold its own hearing
Judicial Appeal:	Yes	Yes	Yes	Yes	Yes

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DECISIONS

TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V
Permitted Uses not requiring site plan review	Short Plat	Preliminary and final plat Plat vacations and alterations	Zoning District Amendments	Comp Plan Amendments
Boundary line Adjustments	Sign permits	Site plan	Zoning Text Amendments	Development Regulations
	Design review	CUP/Variances		Area Wide Rezone
		Shoreline Mgmt Permits		Annexations

19.01.004 Joint Public Hearings.

A. **Administrator's Decision to Hold Joint Hearing.** The administrator may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as: (1) the hearing is held within the city limits; and (2) the requirements of subsection C below are met.

B. **Applicant's Request for a Joint Hearings.** The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this Title. In the alternative, the applicant may agree to a particular schedule if that additional time is needed in order to complete the hearings.

C. **Prerequisites to Joint Public Hearing.** A joint public hearing may be held with another local, state, regional, federal or other agency and the City, as long as:

1. the other agency is not expressly prohibited by statute from doing so;
2. sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and
3. the agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing.

19.01.005 Legislative Decisions.

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A. **Decisions.** The following decisions are legislative, and are not subject to the procedures in this chapter, unless otherwise specified:

1. Zoning code and development regulation amendments;
2. Area-wide rezones to implement new City policies;
3. Adoption of the Comprehensive Plan and any Plan amendments; and
4. Annexations.

B. **Planning Commission.** The Planning Commission shall hold a public hearing and make recommendations to the City Council on the decisions in this Section. The public hearing shall be held in accordance with the requirements of Chapter 19.04.

C. **City Council.** The City Council may consider the Planning Commission's recommendation in a public hearing held in accordance with the requirements of Chapter 19.04 or 19.05.

D. **Public Notice.** Notice of the public hearing or public meeting shall be provided to the public as set forth in Chapter 19.03.

E. **Implementation.** The City Council's decision shall become effective by passage of an ordinance or resolution.

19.01.006. Legislative Enactments Not Restricted. Nothing in this chapter or the permit processing procedures shall limit the authority of the City Council to make changes to the City's Comprehensive Plan, as part of an annual revision process, or the City's development regulations.

### 19.01.007 Exemptions from Project Permit Application Processing.

A. Whenever a permit or approval in the Gig Harbor Municipal Code has been designated as a Type I, II, III or IV permit, the procedures in this Title shall be followed in project permit processing. The following permits or approvals are specifically excluded from the procedures set forth in this Title:

1. landmark designations;
2. street vacations;
3. street use permits;

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B. Building permits and boundary line adjustments, when not paired with any other permit application, are excluded from the procedures set forth in Project Permit Application Processing, but must still comply with Sections \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.

### CHAPTER 19.02 TYPE I-IV PROJECT PERMIT APPLICATIONS

19.02.001	Pre-Application Conference.
19.02.002	Development Permit Application.
19.02.003	Submission and Acceptance of Application.
19.02.004	Notice of Application.
19.02.005	Referral and Review of Development Permit Applications.

#### 19.02.001. Pre-Application Conference.

A. Applications for project permit Type I actions involving structures 5,000 square feet or over, Type III and Type IV actions shall not be accepted by the Director unless the applicant has scheduled and attended a pre-application conference. The purpose of the pre-application conference is to acquaint the applicant with the requirements of the Gig Harbor Municipal Code.

B. The conference shall be held within fifteen (15) days of the request.

C. At the conference or within five (5) working days of the conference, the administrator shall provide the applicant with:

1. a form which lists the requirements for a completed application;
2. a general summary of the procedures to be used to process the application;
3. the references to the relevant code provisions or development standards which may apply to the approval of the application.
4. the City's design guidelines.

D. It is impossible for the conference to be an exhaustive review of all potential issues. The discussions at the conference or the form sent by the City to the applicant under subsection C. above shall not bind or prohibit the City's future application or enforcement of all applicable law.

E. Pre-application conferences for all other types of applications is optional, and requests for conferences will be considered on a time-available basis by the Director.

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19.02.002. Development Permit Application. Applications for project permits shall be submitted upon forms provided by the administrator. An application shall consist of all materials required by the applicable development regulations, and shall include the following general information:

- A. A completed project permit application form.
- B. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property.
- C. A property and/or legal description of the site for all applications, as required by the applicable development regulations.
- D. The applicable fee.
- F. Evidence of adequate water supply as required by RCW 19.27.097.
- G. Evidence of sewer availability.

19.02.003. Submission and Acceptance of Application.

- A. **Determination of Completeness.** Within twenty-eight (28) days after receiving a project permit application, the City shall mail or personally provide a determination to the applicant which states either: (1) that the application is complete; or (2) that the application is incomplete and what is necessary to make the application complete.
- B. **Identification of Other Agencies with Jurisdiction.** To the extent known by the City, other agencies with jurisdiction over the project permit application shall be identified in the City's determination required by subsection A. above.
- C. **Additional Information.** A project permit application is complete for purposes of this section when it meets the submission requirements in Section 19.02.002 above, as well as the submission requirements contained in the applicable development regulations. This determination of completeness may be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The City's determination of completeness shall not preclude the City from requesting additional information or studies either at the time of the notice of completeness or at some later time, if new information is required or where there are substantial changes in the proposed action.
- D. **Incomplete application procedure.**

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1. If the applicant receives a determination from the City that an application is not complete, the applicant shall have 90 days to submit the necessary information to the City. Within fourteen (14) days after an applicant has submitted the requested additional information, the City shall make the determination as described in subsection A. above, and notify the applicant in the same manner.

2. If the applicant either refuses in writing to submit additional information or does not submit the required information within the 90 day period, the Director shall make findings and issue a decision, according to the Type I procedure in Section 19.01.003, that the application is denied based upon the lack of information necessary to complete the review.

3. In those situations where the Director has denied an application because the applicant has failed to submit the required information within the necessary time period, the applicant may request a refund of the application fee unrelated to the City's determination of completeness.

**E. City's Failure to Provide Determination of Completeness.** A project permit application shall be deemed complete under this section if the City does not provide a written determination to the applicant that the application is incomplete as provided in subsection A. above.

**F. Date of Acceptance of Application.** When the project permit application is complete, the Director shall accept it and note the date of acceptance.

### 19.02.004. Notice of Application.

**A. Generally.** A Notice of Application shall issue on all Type III and IV project permit applications.

**B. SEPA Exempt projects.** A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record predecision hearing is required.

**C. Contents.** The notice of application shall include:

1. the date of application, the date of the notice of completion for the application and the date of the notice of application;

2. a description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70A.440 (or Sec. 413 of ESHB 1724);



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3. the identification of other permits not included in the application, to the extent known by the City;
4. the identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
5. a statement of the limits of the public comment period, which shall be not less than fourteen (14) nor more than thirty (30) days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;
6. the date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;
7. a statement of the preliminary determination of consistency, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation and of consistency as provided in Chapter 19.04;
8. Any other information determined appropriate by the City, such as the City's threshold determination, if complete at the time of issuance of the notice of application.

### **D. Time Frame for Issuance of Notice of Application.**

1. Within fourteen (14) days after the City has made a determination of completeness of a project permit application, the City shall issue a notice of application.
2. If any open record predecision hearing is required for the requested project permit(s), the notice of application shall be provided at least fifteen (15) days prior to the open record hearing.

**E. Public Comment on the Notice of Application.** All public comments received on the Notice of Application must be received in the City Community Development Department by 5:00 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by facsimile. Comments should be as specific as possible.

**19.02.005. Referral and Review of Project Permit Applications.** Within ten (10) days of accepting a complete application, the Director shall do the following:

A. Transmit a copy of the application, or appropriate parts of the application, to each affected agency and city department for review and comment, including those responsible for determining compliance with state and federal requirements. The affected agencies and city

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departments shall have fifteen (15) days to comment. The referral agency or city department is presumed to have no comments if comments are not received within the specified time period. The administrator shall grant an extension of time only if the application involves unusual circumstances. Any extension shall only be for a maximum of three (3) additional days.

B. If a Type III procedure is required, provide for notice and hearing as set forth in Chapter 19.03.

### CHAPTER 19.03 PUBLIC NOTICE

- 19.03.001 Required Public Notice of Application.
- 19.03.002 Optional Public Notice.
- 19.03.003 Notice of Public Hearing.

#### 19.03.001 Required Public Notice of Application.

A. In addition to the Notice of Application for Type III and IV project permits, the City shall also provide public notice of a project permit application by posting the property or by publication in the City's official newspaper.

1. **Posting.** Posting of the property for site specific proposals shall consist of one or more notice boards as follows:

a. A single notice board shall be placed by the applicant;

(1) at the midpoint of the site street frontage or as otherwise directed by the City for maximum visibility;

(2) Five (5) feet inside the street property line, except when the board is structurally attached to an existing building, provided that no notice board shall be placed more than five feet from the street property without approval of the Department;

(3) So that the top of the notice board is between seven to nine feet above grade; and

(4) Where it is completely visible to pedestrians.

b. Additional notice boards may be required when:

(1) The site does not abut a public road;

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(2) A large site abuts more than one public road; or

(3) The Administrator determines that additional notice boards are necessary to provide adequate public notice.

c. Notice boards shall be:

(1) Maintained in good condition by the applicant during the notice period;

(2) In place at least thirty (30) days prior to the date of hearing, or at least 15 days prior to the end of any required comment period;

(3) Removed within fifteen (15) days after the end of the notice period.

d. Removal of the notice board prior to the end of the notice period may be cause for discontinuance of the Department review until the notice board is replaced and remains in place for the specified time period.

e. An affidavit of posting shall be submitted to the Administrator by the applicant prior to the hearing or final comment date. If the affidavits are not filed as required, any scheduled hearing or date by which the public may comment on the application, will be postponed in order to allow compliance with this notice requirement.

f. Notice boards shall be constructed and installed in accordance with specifications promulgated by the Department of Planning and Building.

2. **Published Notice.** Published notice shall include at least the project location, description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed, in the City's official newspaper of general circulation in the general area where the proposal is located.

3. **Shoreline Master Program Permits.**

a. **Methods of Providing SMP Notice.** Notice of the application of a permit under the purview of the City's Shoreline Master Program (SMP) is given by at least one of the following methods:

i. mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least 300 feet of the boundary of the property upon which the substantial development is proposed;

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ii. posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

iii. any other manner deemed appropriate by the City to accomplish the objectives of reasonable notice to adjacent landowners and the public.

b. **Content of SMP Notice.** The notices shall include:

i. a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after issuance of the decision, may submit the comments or requests for decisions to the City within 30 days of the last date the notice is to be published pursuant to this subsection. The City shall forward, in a timely manner following issuance of the decision, a copy of the decision to each person who submits a request for the decision.

ii. Notice of the hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

iii. The public comment period shall be twenty days. The notice shall state the manner in which the public may obtain a copy of the City's decision on the application no later than 2 days following its issuance.

19.03.002 Optional Public Notice. As optional methods of providing public notice of any project permits, the City may:

1. notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered;

2. notifying the news media;

3. placing notices in appropriate regional or neighborhood newspapers or trade journals;

4. publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

5. mailing to neighboring property owners.

The City's failure to provide the optional notice as described in this subsection shall not be grounds for invalidation of any permit decision.

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ii. posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

iii. any other manner deemed appropriate by the City to accomplish the objectives of reasonable notice to adjacent landowners and the public.

b. **Content of SMP Notice.** The notices shall include:

i. a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after issuance of the decision, may submit the comments or requests for decisions to the City within 30 days of the last date the notice is to be published pursuant to this subsection. The City shall forward, in a timely manner following issuance of the decision, a copy of the decision to each person who submits a request for the decision.

ii. Notice of the hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

iii. The public comment period shall be twenty days. The notice shall state the manner in which the public may obtain a copy of the City's decision on the application no later than 2 days following its issuance.

19.03.002 Optional Public Notice. As optional methods of providing public notice of any project permits, the City may:

1. notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered;

2. notifying the news media;

3. placing notices in appropriate regional or neighborhood newspapers or trade journals;

4. publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

5. mailing to neighboring property owners.

The City's failure to provide the optional notice as described in this subsection shall not be grounds for invalidation of any permit decision.

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### 19.03.003. Notice of Public Hearing.

A. **Content of Notice of Public Hearing for all Types of Applications.** The notice given of a public hearing required in this chapter shall contain:

1. the name and address of the applicant or the applicant's representative;
2. description of the affected property, which may be in the form of either a vicinity location or written description, other than a legal description;
3. the date, time and place of the hearing;
4. a description of the subject property reasonably sufficient to inform the public of its location, including but not limited to the use of a map or postal address and a subdivision lot and block designation.
5. the nature of the proposed use or development;
6. a statement that all interested persons may appear and provide testimony;
7. the sections of the code that are pertinent to the hearing procedure;
8. when information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;
9. the name of a local government representative to contact and the telephone number where additional information may be obtained;
10. that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at the City's cost;
11. that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and copies will be provided at the City's cost;

B. **Mailed Notice.** Mailed notice of the public hearing shall be provided as follows:

1. **Type I and Type II Actions.** No public notice is required because no public hearing is held, except on an appeal of a Type II action.
2. **Type III Actions.** The notice of public hearing shall be mailed to:

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- a. the applicant;
- b. all owners of property within 300 feet of the subject property;
- c. any person who submits written or oral comments on an application.

3. **Type IV Actions.** The notice of public hearing shall be mailed to all of the persons entitled to notice as described in subsection (B)(2) above, and for preliminary plats and proposed subdivisions, additional notice shall be provided as follows:

a. Notice of the filing of a preliminary plat adjacent to or within one mile of the municipal boundaries of a city or town, or which contemplates the use of any city or town utilities shall be given to the appropriate city or town authorities.

b. Notice of the filing of a preliminary plat of a proposed subdivisions located in a city or town and adjoining the municipal boundaries thereof shall be given to the appropriate county officials.

c. Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-wy of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the secretary of transportation, who must respond within 15 days of such notice.

d. Special notice of the hearing shall be given to adjacent landowners by any other reasonable method the City deems necessary. Adjacent landowners are the owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice under subsection RCW 58.17.909(1)(b) shall be given to owners of real property located with 300 feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided.

4. **Type V Actions.** For Type V Legislative actions, the City shall publish notice as described in Section 19 \_\_\_\_\_ herein, and all other notice required by RCW 35A.12.160.

### 5. **General Procedure for Mailed Notice of Public Hearing.**

1. The records of the Pierce County Assessor's Office shall be used for determining the property owner of record. Addresses for a mailed notice required by this code shall be obtained from the applicable county's real property tax records. The administrator or

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his/her designee shall issue a sworn certificate of mailing to all persons entitled to notice under this chapter. The administrator may provide notice to other persons that those required to receive notice under the code.

2. All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.

### D. Procedure for Posted or Published Notice of Public Hearing.

1. Posted notice of the public hearing is required for all Type III and IV project permit applications. The posted notice shall be posted as required by Section 19.03.001(A)(1).

2. Published notice is required for all Type III, IV and V procedures. The published notice shall be published in the City's official newspaper.

### E. Time and Cost of Notice of Public Hearing.

1. Notice shall be mailed, posted and first published not less than ten (10) nor more than thirty (30) days prior to the hearing date. Any posted notice shall be removed by the applicant within fifteen (15) days following the public hearing.

2. All costs associated with the public notice shall be borne by the applicant.

## CHAPTER 19.04 CONSISTENCY WITH DEVELOPMENT REGULATIONS AND SEPA

19.04.001	Determination of Consistency
19.04.002	Initial SEPA Analysis
19.04.003	Categorically Exempt and Planned Actions

### 19.04.001. Determination of Consistency.

A. **Purpose.** When the City receives a project permit application, consistency between the proposed project and the applicable regulations and comprehensive plan should be determined through the process in this chapter.

B. **Consistency.** During project permit application review, the City shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project. In the absence of applicable development regulations, the City shall determine whether the items listed in this subsection are defined in the City's adopted comprehensive plan. This determination of consistency shall include the following:



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1. the type of land use permitted at the site, including uses that may be allowed under certain circumstances, if the criteria for their approval have been satisfied;
2. the level of development, such as units per acre, density of residential development in urban growth areas, or other measures of density; and
3. availability and adequacy of infrastructure and public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter 36.70A RCW; and
4. character of the development, such as development standards;

### 19.04.002 Initial SEPA Analysis.

A. The City shall also review the project permit application under the requirements of the State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW, the SEPA Rules, Chapter 197-11 WAC, and the City Environmental Policy Ordinance, Chapter 18.04 of the Gig Harbor Municipal Code, and shall:

1. determine whether the applicable regulations require studies that adequately analyze all of the project permit application's specific probable adverse environmental impacts;
2. determine if the applicable regulations require measures that adequately address such environmental impacts;
3. determine whether additional studies are required and/or whether the project permit application should be conditioned with additional mitigation measures;
4. provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level.

B. In its review of a project permit application, the administrator may determine that the requirements for environmental analysis, protection and mitigation measures in the applicable development regulations, comprehensive plan and/or in other applicable local, state or federal laws provide adequate analysis of and mitigation for the specific adverse environmental impacts of the application.

C. If the City bases or conditions its approval of the project permit application on compliance with the requirements or mitigation measures described in subsection A of this section, the City shall not impose additional mitigation under SEPA during project review.

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D. A comprehensive plan, development regulation or other applicable local, state or federal law provides adequate analysis of and mitigation for the specific adverse environmental impacts of an application when:

1. the impacts have been avoided or otherwise mitigated; or
2. the City has designated as acceptable certain levels of service, land use designations, development standards or other land use planning required or allowed by chapter 36.70A RCW.

E. In its decision whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the City shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the City shall base or condition its project approval on compliance with these other existing rules or laws.

F. Nothing in this section limits the authority of the City in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by chapter 43.21C RCW.

G. The City shall also review the application under chapter 18.04, the City Environmental Policy Ordinance.

### 19.04.003. Categorically Exempt and Planned Actions.

A. **Categorically Exempt.** Actions categorically exempt under chapter 43.21C.110(1)(a) do not require environmental review or the preparation of an environmental impact statement. An action that is categorically exempt under the rules adopted by the Department of Ecology (chapter 197-11 WAC) may not be conditioned or denied under SEPA.

#### B. **Planned Actions.**

1. A Planned Action does not require a threshold determination or the preparation of an environmental impact statement under SEPA, but is subject to environmental review and mitigation under SEPA.

2. A "Planned Action" means one or more types of project action that:
  - a. are designated planned actions by an ordinance or resolution adopted by the City;

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- b. have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with:
  - 1) a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or
  - 2) a fully contained community, a master planned resort, a master planned development or a phased project;
- c. are subsequent or implementing projects for the proposals listed in 2(b.) of this subsection;
- d. are located within an urban growth area, as defined in RCW 36.70A.030;
- e. are not essential public facilities, as defined in RCW 36.70A.200; and
- f. are consistent with the City's comprehensive plan adopted under chapter 36.70A RCW.

**C. Limitations on Planned Actions.** The City shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the City, and may limit a planned action to a time period identified in the environmental impact statement or the adoption of this ordinance.

**D.** During project review, the City shall not reexamine alternatives to or hear appeals on the items identified in subsection (A)(c) of this section, except for issues of code interpretation.

**E.** Project review shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts.

**CHAPTER 19.05  
OPEN RECORD PUBLIC HEARINGS**

- 19.05.001 General.
- 19.05.002 Responsibility of Director for Hearing.
- 19.05.003 Conflict of Interest
- 19.05.004 Ex Parte Communications
- 19.05.005 Disqualification
- 19.05.006 Burden of Proof

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19.05.007	Order of Proceedings
19.05.008	Findings and Notice of Decision
19.05.009	Record of Proceedings

19.05.001. General. Public hearings on all Type II, III and IV project permit applications, shall be conducted in accordance with this chapter.

19.05.002 Responsibility of Director for Hearing. The Director shall:

- A. Schedule an application for review and public hearing.
- B. Give notice.
- C. Prepare the staff report on the application, which shall be a single report stating all of the decisions made as of the date of the report, including recommendations on project permits in the consolidated permit process that do not require an open record predecision hearing. The report shall state any mitigation required or proposed under the development regulations or the City's authority under SEPA. If the threshold determination other than a determination of significance has not been issued previously by the City, the report shall include or append this determination. In the case of a Type I or II project permit application, this report may be the permit.
- D. Prepare the Notice of Decision, if required by the Hearing Body and/or mail a copy of the Notice of Decision to those required by this code to receive such decision.

19.05.003 Conflict of Interest. The Hearing Body shall be subject to the code of ethics and prohibitions on conflict of interest as set forth in RCW 35A.42.020 and chapter 42.23 RCW, as the same now exists or may hereafter be amended.

19.05.004 Ex Parte Communications.

- A. No member of the Hearing Body may communicate, directly or indirectly, regarding any issue in a proceeding before him or her, other than to participate in communications necessary to procedural aspects of maintaining an orderly process, unless he or she provides notice and opportunity for all parties to participate; EXCEPT as provided in this section;
  - 1. the Hearing Body may receive advice from legal counsel;
  - 2. the Hearing Body may communicate with staff members (except where the proceeding relates to a code enforcement investigation or prosecution).
- B. If, before serving as the hearing body in a quasi-judicial proceeding, any member of the Hearing Body receives an ex parte communication of a type that could not properly be received

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while serving, the member of the hearing body, promptly after starting to serve, shall disclose the communication as described in subsection C. below.

C. If the Hearing Body receives an ex parte communication in violation of this section, he or she shall place on the record:

1. all written communications received;
2. all written responses to the communications;
3. a memorandum stating the substance of all oral communications received, and all responses made;
4. the identity of each person from whom the examiner received any ex parte communication.

The Hearing Body shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a rebuttal statement on the record.

### 19.05.005 Disqualification.

A. A member of the Hearing Body who is disqualified shall be counted for purposes of forming a quorum. Any member who is disqualified may do so only by making full disclosure to the audience, abstaining from voting on the proposal, vacating the seat on the hearing body and physically leaving the hearing.

B. If all members of the Hearing Body are disqualified, all members present after stating their reasons for disqualification shall be requalified and shall proceed to resolve the issues.

C. Except for Type V actions, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received.

### 19.05.006 Burden and Nature of Proof.

Except for Type V actions, the burden of proof is on the proponent. The project permit application must be supported by proof that it conforms to the applicable elements of the City's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed.

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### 19.05.007 Order of Proceedings.

A. The order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

1. Before receiving information on the issue, the following shall be determined:
  - a. any objections on jurisdictional grounds shall be noted on the record and if there is objection, the hearing body has the discretion to proceed or terminate.
  - b. any abstentions or disqualifications shall be determined.
2. The presiding officer may take official notice of known information related to the issue, such as:
  - a. a provision of any ordinance, resolution, rule, officially adopted development standard or state law;
  - b. other public records and facts judicially noticeable by law.
3. Matters officially noticed need not be established by evidence and may be considered by the Hearing Body in its determination. Parties requesting notice shall do so on the record. However, the hearing body may take notice of matters listed in subsection (2) of this section if stated for the record. Any matter given official notice may be rebutted.
4. The Hearing Body may view the area in dispute with or without notification to the parties, but shall place the time, manner and circumstances of such view on the record.
5. Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.
6. When the presiding officer has closed the public hearing portion of the hearing, the Hearing Body shall openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.

### 19.04.008. Decision.

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A. Following the hearing procedure described in Section 19.04.006, the Hearing Body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse or remand the decision that is on appeal.

B. The Hearing Body's written decision shall issue within ten (10) days after the hearing on the project permit application. The Notice of Final Decision shall issue within one hundred twenty (120) days after the City notifies the applicant that the application is complete. The time frames set forth in this Section and Section 19.04.009 shall apply to project permit applications filed on or after April 1, 1996.

C. The City shall provide a Notice of Decision that also includes a statement of any threshold determination made under SEPA (chapter 43.21C RCW) and the procedures for administrative appeal, if any. For Type II, III and IV project permits, the Notice of Decision on the issued permit shall contain the requirements set forth in Section 19.05.002(C).

D. The Notice of Decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

E. Notice of the decision shall be provided to the public as set forth in Section 19.03.003(B)(2)(a) and (B)(2)(c).

F. If the City is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the Notice of Decision.

### 19.04.009 Calculation of Time Periods for Issuance of Notice of Final Decision.

A. In determining the number of days that have elapsed after the local government has notified the applicant that the application is complete for purposes of calculating the time for issuance of the Notice of Final Decision, the following periods shall be excluded:

I. any period during which the applicant has been requested by the City to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the local government notifies the applicant of the need for additional information until the earlier of the date the local government determines whether the additional information satisfies the request for information or fourteen (14) days after the date the information has been provided to the City;

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2. If the City determines that the information submitted by the applicant under A(1) of this subsection is insufficient, it shall notify the applicant of the deficiencies and the procedures under A(1) of this subsection shall apply as if a new request for studies had been made;

3. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant of chapter 43.21C RCW, if the City by ordinance has established time periods for completion of environmental impact statements, or if the local government and the applicant in writing agree to a time period for completion of an environmental impact statement;

4. Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for consideration and decision on appeals shall not exceed:

- a. ninety (90) days for an open record appeal hearing; and
- b. sixty (60) days for a closed record appeal.

The parties may agree to extend these time periods;

5. Any extension of time mutually agreed upon by the applicant and the local government; and

B. The time limits established in this Title do not apply if a project permit application:

- 1. requires an amendment to the comprehensive plan or a development regulation;
- 2. requires approval of the siting of an essential public facility as provided in RCW 36.70A.200; or
- 3. is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under RCW 36.70A.440.

**CHAPTER 19.05  
CLOSED RECORD MEETINGS  
AND APPEALS**

- 19.05.001 Appeals of Administrative Decisions
- 19.05.002 Consolidated Appeals
- 19.05.003 Standing to Initiate Administrative Appeal



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- 19.05.004 Closed Record Decisions and Appeals
- 19.05.005 Procedure for Closed Record Decisions and Appeals
- 19.05.006 Judicial Appeals

19.05.001. Appeals of Decisions. Appeals of project permit application shall be appealable as provided in the framework in Section 19.01.003.

### 19.05.002 Consolidated Appeals.

A. All appeals of project permit application decisions, other than an appeal of Determination of Significance ("DS"), shall be considered together in a consolidated appeal.

B. Appeals of environmental determinations under SEPA, chapter 20.04 BMC, shall proceed as provided in that chapter.

### 19.05.003 Standing to Initiate Administrative Appeal.

A. **Limited to Parties of Record.** Only parties of record may initiate an administrative appeal of a Type II or III decision or a Type IV recommendation on a project permit application.

B. **Definition.** The term "parties of record" for the purposes of this chapter, shall mean:

1. the applicant;
2. any person who testified at the open record public hearing on the application;
3. any person who submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or mechanically produced form letters);

### 19.05.004 Closed Record Decisions and Appeals.

A. **Type II, III or IV project permit decisions or recommendation.** Appeals of the Hearing Body's decision or recommendation on a Type II, III or IV project permit application shall be governed by the following:

1. **Standing.** Only parties of record have standing to appeal the Hearing Body's decision.

2. **Time to File.** An appeal of the Hearing Body's decision must be filed within ten (10) calendar days following issuance of the Hearing Body's written decision. Appeals may be

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delivered to the Department of Community Development by mail, personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period.

3. Computation of Time. For the purposes of computing the time for filing an appeal, the date the Hearing Body's decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the City's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next business day. (RCW 35A.21.080.)

4. Content of Appeal. Appeals shall be in writing, be accompanied by an appeal fee, and contain the following information:

- a. appellant's name, address and phone number;
- b. appellant's statement describing his or her standing to appeal;
- c. identification of the application which is the subject of the appeal;
- d. appellant's statement of grounds for appeal and the facts upon which the appeal is based;
- e. the relief sought, including the specific nature and extent;
- f. a statement that the appellant has read the appeal and believes the contents to be true, following by the appellant's signature.

5. Effect. The timely filing of an appeal shall stay the effective date of the Hearing Body's decision until such time as the appeal is adjudicated by the Council or withdrawn.

6. Notice of Appeal. The administrator shall provide public notice of the appeal as provided in Section 19.03.003(B)(2).

### 19.05.005 Procedure for Closed Record Decision/Appeal.

A. The following subsections of this Title shall apply to a Closed Record Decision/Appeal hearing: 19.05.003; 19.05.004; 19.05.005; 19.05.006; 19.05.007(A)(1); 19.05.007(A)(2), 19.05.007(A)(3), 19.05.007(A)(4), 19.05.007(A)(6); and 19.05.008.

B. The closed record appeal/decision hearing shall be on the record before the Hearing Body, and no new evidence may be presented.

### 19.05.006 Judicial Appeals.

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A. The City's final decision on an application may be appealed by a party of record with standing to file a land use petition in Pierce County Superior Court. Such petition must be filed within twenty-one (21) days of issuance of the decision, as provided in Section 705 of Chapter 347 of the Laws of 1995.

### CHAPTER 19.06 I-164 Challenges

19.06.001	Purpose
19.06.002	Definitions
19.06.003	Standing
19.06.004	Application Procedure
19.06.005	Notice of Application
19.06.006	Written Advisory Decision
19.06.007	Hearing Examiner Review
19.06.008	Burden of Proof
19.06.009	Appeals
19.06.010	Compensation

#### 19.06.001 Purpose.

The purpose of this Chapter is to provide a mechanism by which Initiative 164 (I-164) can be implemented to protect the private property interests of property owners while also protecting the public health, safety and welfare of the community and the financial integrity of the City so that it can effectively provide services to all of its citizens.

#### 19.06.002 Definitions.

- A. Affected private property owner: Any person who may be entitled to compensation under Section 4 of I-164 due to the imposition or potential imposition of a city regulation.
- B. City Representative. An elected official or paid employee of the City that has jurisdiction to make a requested decision.
- C. I-164 Takings: A takings for general public use as defined by Section 4 of I-164.
- D. Imposition of a city regulation: The imposition of a "restraint of land use", as defined in Section 7(4) of I-164, in circumstances that involve the administration or enforcement of City regulations.

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F. Written Advisory Decisions. A written opinion written or approved by a city representative for purposes of this Chapter that advises an affected property owner of how a city regulation will limit the use or development of the affected property owner's property.

19.06.003 Standing. Any affected private property owner alleging a I-164 takings due to the imposition of a city regulation may seek relief under this Chapter and must do so before applying for judicial relief.

### 19.06.004 Application Procedure.

A. An affected property owner must comply with the following application procedures in order to obtain relief under this Chapter:

1. The affected private property owner must apply to the Director for a I-164 takings determination.
2. The I-164 takings application must be prepared on forms provided by the Director and at a minimum contain the following information:
3. The name, address and telephone number of the applicant and the name, address and telephone number of the any agent of the applicant that the applicant desires to receive notice under this Chapter, if any; and
4. A street address and legal description of the affected property as well as an identification of which property interest listed in Section 7(3) of I-164 is implicated; and
5. The regulation and decision that allegedly creates or will create a I-164 takings; and
6. The amount of the reduction in the fair market value of the property that will be created from the alleged I-164 takings and an explanation of how this amount was determined; and
7. The specific action that the applicant seeks to accomplish with the affected property interest and any regulatory waivers and/or modifications that would permit the applicant to accomplish the action.

B. The I-164 takings application must be filed with the Director in the same period of time for an administrative appeal as set forth in Section 19.05.004(A)(2).

C. The City shall supply information to the applicant on the completeness of his or her application as described in Section 19.02.003.

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D. The claim for an I-164 takings must be based upon a specifically identifiable action that the affected property owner is prevented from undertaking due to the imposition or potential imposition of a city regulation.

E. The affected property owner must file a complete application for any permits or approval required by the regulations alleged by the affected property owner to create a I-164 taking before filing an application under this section and in cases where no City permit or approval is required, the affected private property owner must have acquired an advisory opinion as provided for herein.

19.06.006 Notice of Application. Notice of an I-164 challenge application shall be provided by the City as set forth in Section 19.02.004.

### 19.06.007 Written Advisory Decisions.

A. For impositions or potential impositions of city regulations that do not involve City permits or approval, the City shall provide a written advisory opinion upon written request from an affected private property owner within thirty days of the request, unless the City provides a written response to the affected private property owner within the thirty days that provides an explanation for the necessity for specified additional time. Additional time required to provide a written response shall be based upon insufficient time to formulate an opinion due to unusual staff shortages; exceptionally complicated legal issues requiring the assistance of legal counsel; pending clarification of applicable law such as new legislation or court decisions; or the consent of the applicant. Response times of an affected property owner to requests for clarification shall be excluded from the thirty day deadline.

B. City representatives may issue written advisory decisions at the request of an affected private property owner for any impositions of city regulations if in the opinion of the city representative the written advisory decision would facilitate the implementation of this chapter.

### 19. . . . Hearing Examiner Review of I-164 Takings Claims.

A. A public hearing shall be scheduled before the Hearings Examiner within forty-five days of the date that a notice of complete application is issued and more than fifteen days from the date that notice is issued for the public hearing.

1. Notice of the public hearing shall be issued within fourteen days that a notice of complete application is issued.

2. In addition to the notice requirements of this chapter, the public hearing shall include the following information:

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- a. The date of application, the date of notice of completion for the application, and the date of the notice for the public hearing;
- b. A description of the authority of the Hearings Examiner under this Chapter, a description of the specific action requested by the applicant, a list of the land use permit applications potentially affected by the application, and a list of any studies required for government approval of the specific action.
- c. The identification of any other permits known to the City that are required for the completion of the specific action identified in this chapter.
- d. The identification of existing environmental documents that evaluate the proposed specific action and the location where the application and any studies can be reviewed;
- e. A statement of the public comment period, which shall commence on the date notice is issued for the public hearing and terminate fifteen days prior to the date of the public hearing; statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;
- f. The date, time and place of the public hearing and that the hearing will be conducted by and before the Hearings Examiner; and
- g. Any other information determined appropriate by the City.

B. In analyzing the I-164 takings claim, the first issue to be determined by the Hearings Examiner shall be whether a takings will occur if the City enforces the final government decision and/or written advisory opinion.

1. If the Hearings Examiner determines that no I-164 takings will occur, the Hearings Examiner shall issue written findings of fact and conclusions of law supporting this determination and the challenged final government decision or written advisory opinion will not be subject to modification by the Hearings Examiner.

2. If the Hearings Examiner determines that an I-164 takings will occur if the final government decision or written advisory opinion is enforced, the Hearings Examiner shall consider modifying and/or waiving city regulations and imposing substitute conditions pursuant to the decision making process herein, to the extent necessary to prevent the I-164 takings while preserving the purpose of the modified or waived regulations to the maximum extent reasonably possible.

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C. The Hearings Examiner shall comply with the following decision making process in modifying and/or waiving property regulation and imposing substitute conditions:

1. The Hearings Examiner shall first reduce the I-164 takings to the maximum extent possible by modifying and/or waiving the city regulation(s) that creates the I-164 takings while concurrently maintaining the purpose of the regulation(s). The Hearing Examiner may impose reasonable substitute conditions to maintain the purpose of the regulation(s).

2. To the extent that a I-164 takings remains after the combination of regulation modifications and/or waivers and substitute conditions, the Hearings Examiner shall consider and may waive or modify applicable city regulations to the extent that such waivers or modifications shall reduce or eliminate I-164 takings liability in the following order of priority:

a. Design review criteria and all other regulation primarily related to land use aesthetics not mandated by state or federal law.

b. Zoning bulk and density regulations not mandated by state or federal law.

c. All regulations not mandated by state law or federal law that do not fall into any of the regulatory categories identified herein.

d. All regulations not mandated by state or federal law primarily designed to protect environmentally sensitive areas such as wetlands, geological hazards and aquifers.

e. All regulations mandated by state law and not mandated by federal law.

f. All regulations not mandated by federal law that primarily protect public safety as applied in the case reviewed by the Hearings Examiner.

Regulations mandated by state or federal law shall be those laws that the City is required by federal or state law to enforce and that will not satisfy state mandates if modified or waived as contemplated by the Hearings Examiner.

3. Regulations within each category of regulation identified in (a) through (f) above shall be modified and/or waived as follows:

a. Modification or waivers shall be prioritized according to severity of adverse impacts on public health, safety and welfare, including impacts on adjacent property owners.

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b. The Hearings Examiner is authorized to impose substitute conditions to preserve the purpose of any modified or waived regulation so long as the substitute conditions do not result in I-164 takings themselves.

D. The Hearings Examiner shall issue written findings of fact and conclusions of law incorporating the modifications, waivers and substitute conditions formulated under the decision making process outlined above, and these findings and conclusions shall be submitted to the city representative that issued the final government decision or written advisory opinion. Upon receipt of the Hearing Examiner's findings and conclusions the city representative shall reconsider his or her opinion or decision by implementing the Hearing Examiner's decision. The City representative shall not issue his or her decision until all appeals and elections to pay under have been resolved and the City representative shall incorporate the result of those appeals or elections to pay into its decision.

E. If ambiguities in I-164 do not make it possible for the Hearings Examiner to determine if a compensable I-164 takings will occur as alleged by the affected property owner, the Hearings Examiner shall apply the criteria of this subsection as if a I-164 takings will occur.

F. The Hearings Examiner shall issue its final decision on the application within one hundred twenty days after the City has notified the applicant that the application is complete.

1. In determining the number of days that have elapsed after the City has notified the applicant that the application is complete, the following periods shall be excluded:

a. Any period during which the applicant has been requested to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the City notifies the applicant of the need for additional information until the earlier of the date the City determines whether the additional information satisfies the request for information or fourteen days after the date the information has been provided to the City.

b. If the City determines that the information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies and the procedures herein shall apply as if a new request for studies had been made;

c. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW (the State Environmental Policy Act), if the City by ordinance or resolution has established time periods for completion of environmental impact statements, or if the City and the applicant in writing agree to a time period for completion of an environmental impact statement;

d. Any extension of time mutually agreed upon by the applicant and the City.



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2. The time limits established by this subsection shall not apply if the application is substantially revised by the applicant, in which case the time period shall start from the date at which the revised application is determined to be complete.

3. If the Hearings Examiner is unable to issue its final decision within the time limits provided for in this subsection, it shall provide written notice of this fact to the applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date of issuance of the notice of final decision.

G. Notice of the Hearing Examiners Decision shall be provided as follows:

1. The notice shall identify the specific action at issued and location for the specific action; summarize the Hearing Examiner's decision, including the identification of any regulations waived or modified; identify any threshold determination made under Chapter 43.21C RCW (the State Environmental Policy Act); and summarize the procedures for administrative appeal.

2. The notice shall be provided to the applicant and to any person who, prior to the rendering of the Hearing Examiner's decision, requested notice of the decision or submitted substantive comments on the application.

3. The notice shall be posted upon the property of the specific action identified as provided in this Title and published in a newspaper of general circulation in the general area where the project is located.

### 19.06.008 Burden of Proof and Appraisals.

A. The applicant shall have the burden of proof in establishing a I-164 takings before the Hearings Examiner.

B. The Hearings Examiner may utilize the services of a professionally licensed appraiser if said services would be of substantial assistance to the Hearings Examiner in determining if a I-164 takings will occur as required by this chapter. The expense shall be equally shared between the applicant and the city.

### 19.06.009 Appeal.

A. Appeals of the Hearing Examiner's decision shall be final unless appealed to the City Council within fourteen days of the issuance of the Hearing Examiners decision. The appeal period shall be extended an additional seven days if state or local rules adopted pursuant to Chapter

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43.21C RCW (the State Environmental Policy Act) allow public comment on a determination of nonsignificance issued for purposes of the application.

B. The appeal to the City Council shall be a closed record appeal.

C. The City Council shall written findings and conclusions within sixty days of the filing of the appeal.

### 19.06.010 Compensation in Lieu of Hearing Examiner Modifications.

A. All decisions of the Hearings Examiner shall be summarized and submitted to the City Council within ten days of the issuance of the Notice of Decision.

B. The City Council may elect within thirty days of the receipt of the decision, or within thirty days of modifying the Hearing Examiner's decision on appeal, to compensate the affected property owner in lieu of the Hearing Examiner's modifications and/or waivers and substitute conditions.

C. The City Council shall have ninety days from the date it elects to pay compensation to determine the amount of compensation, if any. The City Council shall adopt written findings of fact and conclusions of law that justify the amount of compensation.

D. Compensation shall be paid to the affected property owner within thirty days of the issuance of the written Hearing Examiner decision, unless another time period is agreed to by the affected property owner.

E. Any appeals filed of the Hearing Examiner's decision shall be decided before the election for compensation.

F. Any affected property owner who is provided compensation under this section shall, as a condition of receiving compensation under this section, record with the Auditor of Pierce County a notice in a form prescribed by the City providing notice of the compensation, the I-164 takings that lead to the compensation, and the fact that subsequent purchasers of the property may have their property rights limited due to this compensation. This notice shall be recorded against the real property that is the subject of the I-164 takings claim.

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

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Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

\_\_\_\_\_  
GRETCHEN A. WILBERT, MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
CITY CLERK, MARK HOPPEN

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

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

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

of the City of Gig Harbor, Washington

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On the \_\_\_\_ day of \_\_\_\_\_, 199\_\_, the City Council of the City of Gig Harbor, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING NEW ADMINISTRATIVE PROCEDURES FOR THE PROCESSING OF PROJECT PERMIT APPLICATIONS, AS REQUIRED BY THE REGULATORY REFORM ACT, CHAPTER 347, LAWS OF 1995, ADDING A NEW TITLE 19 OF THE GIG HARBOR MUNICIPAL CODE.

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 199\_\_.

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CITY CLERK, MARK HOPPEN

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

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

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO LAND USE STANDARDS AND ZONING CODE ADDING A NEW CHAPTER 17.15 PUBLIC/INSTITUTIONAL DISTRICT**

WHEREAS, the Growth Management Act requires that local government planning under the act must adopt development regulations which implement comprehensive plans;

WHEREAS, updating the zoning code is in the public's health, interest, welfare and safety as it implements the goals and policies of the amended City of Gig Harbor Comprehensive Plan of November, 1994;

WHEREAS, new chapter 17.15 implements the City of Gig Harbor Comprehensive Plan Land Use element, Public-Institutional; NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new chapter 17.15 of the Gig Harbor Municipal Code is hereby adopted, to read as follows:

**Chapter 17.15  
Public Institutional District**

<b>17.15.010</b>	<b>Intent</b>
<b>17.15.020</b>	<b>Permitted Uses</b>
<b>17.15.030</b>	<b>Conditional Uses</b>
<b>17.15.040</b>	<b>Site Plane</b>
<b>17.15.050</b>	<b>Minimum Development Standards</b>
<b>17.15.060</b>	<b>Maximum height of structures</b>
<b>17.15.070</b>	<b>Parking and loading facilities</b>
<b>17.15.080</b>	<b>Signs</b>
<b>17.15.090</b>	<b>Performance Standards</b>

17.15.010 Intent

The Public/Institutional District is intended to provide for the siting and maintenance of publically owned facilities and institutions which could not be reasonably sited in any other district. Public facilities shall mean any use, activity or facility which is owned and operated by the City of Gig Harbor, the Peninsula School District, Pierce County or any incorporated city within Pierce County and the State of Washington, including any office of the State of

Washington. For existing facilities, the PI district shall be applied accordingly. For new facilities, the PI district shall be applied in conjunction with an application for site plan review.

17.15.020 Permitted Uses

1. Government Administrative Facilities
2. Maintenance Facilities and Storage Areas
3. Waste Water Treatment Facilities, including biosolids treatment and composting facilities
4. Schools and Related Lands
5. Fire Stations and related training facilities
6. Community Recreation Halls
7. Parks and Open Spaces for active or passive recreation or enjoyment
8. Correction Facilities

17.15.030 Conditional Uses

1. Any essential public facility as defined per RCW 36.70A.200 and the City of Gig Harbor Comprehensive Plan and not specified above may only be authorized as a conditional use.

17.15.040 Site Plan.

Before a building permit will be issued in the PI district, the site plan review process as specified in Chapter 17.96 GHMC shall be followed.

17.15.050 Minimum development standards.

In an PI district, the minimum requirements are as follows:

Use	Lot Width	Front Yard	Rear Yard	Side Yard	Coverage
Admin Facilities	100	25	30	15	60% max
Maintenance Facilities and Storage	100	35	50	15	70 % max
Waste Water Treatment Plants	100	50	50	25	60 % max
Schools	None Specified	50	50	50	60 % max
Fire Stations	100	35	50	25	60 % max
Community Centers	100	25	30	20	60 % max
Parks and Open Space	None Specified	None Specified	None Specified	None Specified	None Specified
Correction Facilities	None Specified	100	100	100	60 % max

Any yard abutting a residential development shall be required to maintain a dense vegetated screen not less than 50 feet.

17.15.060 Maximum height of structures.

In a PI district, all buildings and structures shall have a maximum height of 35 feet, except as provided for under Chapter 17.62 GHMC, height restriction area. The height standard may be waived for certain types of structures which by their nature and design, require an increased height for operational or technical requirements. In no case shall the maximum height be greater than 100 feet.

17.15.070 Parking and loading facilities.

In an PI district, parking and loading on-site shall be provided in connection with any permitted or conditional use as specified in Chapter 17.72 GHMC. Parking is not permitted in the side yards. Parking in front and rear yards is permitted, provided that a minimum landscape buffer equal to one-half the required yard is provided. In rear yards, a dense vegetative screen shall be provided between the parking area and any adjacent residence.

17.15.080 Signs.

In a PI district, signs may be allowed in conjunction with any permitted use and are subject to the provisions of Chapter 17.80 GHMC.

17.15.090 Performance standards.

In an PI district, the performance standards are as follows:

A. *Exterior Mechanical Devices.* Air conditioners, heating, cooling and ventilating equipment, pumps and heaters and all other mechanical devices shall be screened.

B. *Landscaping.* Landscaping is required and shall be installed in conformance with Chapter 17.78 GHMC and/or conditions of approval of discretionary applications required by this title, such landscaping shall be maintained in a neat manner. In no event shall such landscaped areas be used for storage of materials or parking of vehicles.

C. *Outdoor Storage of Materials.* The outdoor storage of materials, including but not limited to lumber, auto parts, household appliances, pipe, drums, machinery or furniture, is permitted as an incidental or accessory activity of a permitted use or the principal feature of a conditional use. Such storage shall be screened by a wall, fence, landscaping or structure from surrounding properties and streets.

D. *Outdoor Lighting.* Within 100 feet of any residential zone or use, outdoor lighting and aerial mounted floodlighting shall be shielded from above in such a manner that the bottom edge of the shield shall be below the light source. Such lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground-mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise. Temporary outdoor lighting intended to advertise a temporary promotional event shall be exempt from this requirement.

E. *Trash Receptacles.* Trash receptacles shall be screened from view. Screening shall be complementary to building design and materials.

Section 39. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 40. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

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

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Mark E. Hoppen, City Administrator

APPROVED AS TO FORM:



OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

FILED WITH THE CITY CLERK:

PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE:

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

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

of the City of Gig Harbor, Washington

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On the \_\_\_\_ day of \_\_\_\_\_, 1995, the City Council of the City of Gig Harbor, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO LAND USE AND ZONING CODE ADDING A NEW CHAPTER 17.15 PUBLIC/INSTITUTIONAL DISTRICT**

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 1995.

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

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO LAND USE STANDARDS AND ZONING CODE ADDING NEW CHAPTER 17.45 (EMPLOYMENT DISTRICT)**

WHEREAS, the Growth Management Act requires that local government planning under the act must adopt development regulations which implement comprehensive plans;

WHEREAS, updating the zoning code is in the public's health, interest, welfare and safety as it implements the goals and policies of the amended City of Gig Harbor Comprehensive Plan of November, 1994;

WHEREAS, new chapter 17.45 implements the 1994 City of Gig Harbor Comprehensive Plan land use element, Employment Business; NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new chapter 17.45 of the Gig Harbor Municipal Code is hereby adopted, to read as follows:

17.45  
EMPLOYMENT DISTRICT

- 17.45.010 Intent
- 17.45.020 Permitted Uses
- 17.45.030 Conditional Uses
- 17.45.040 Performance Standards

17.45.010 Intent

The Employment District District Provides for the location of high quality design development and operational standards for technology research and development facilities, light assembly and warehousing, associated support service and retail uses, business and professional office uses, corporate headquarters and other supporting enterprises. The Employment District District is intended to be devoid of nuisance factors, hazards and potentially high public facility demands. Retail uses are not encouraged in order to preserve these districts for major employment opportunities and to reduce the demand for vehicular access.

17.45.020 Permitted Uses

1. Research and development facilities
2. Light assembly and warehousing
3. Light manufacturing
4. Associated support service and retail uses
5. Support service and retail uses.
6. Professional offices

7. Corporate headquarters
8. Distribution facilities
9. Vocational, trade and business schools
10. Book and magazine publishing and printing
11. Financial and Investment Institutions
12. Commercial Photography, cinematography and video productions facilities
13. Reprographic services
14. Computer assembly plants
15. Courier services
16. Mail and packaging facilities
17. Trails, open space, community centers
18. Schools, public and private.

#### 17.45.030 Conditional Uses

1. Hospitals, clinics and establishments for people convalescing from illness or operation
2. Senior citizen housing
3. Child care facilities
4. Public utilities and public services such as libraries, electrical substations, telephone exchanges, telecommunication facilities, police and fire stations.
5. Recreational buildings and outdoor recreation
6. Houses of religious worship
7. Planned unit developments with a minimum of 65% of the site consisting of an employment based use
8. Ministorage facilities

#### 17.45.040 Performance Standards

All uses in the Employment District zone shall be regulated by the following performance standards:

##### 1. Setbacks

No structure shall be closer than 150 feet to any residential zone or development or closer than 50 feet to any street or property line. Parking shall not be located any closer than 30 feet to a property line.

##### 2. Open Space

A minimum of 30% of the site, excluding setbacks, shall remain in open space, with either retained natural vegetation or new landscaping.

##### 3. Landscaping

All uses shall conform to the landscaping requirements established in Section 17.78. All required yards shall be landscaped in accordance with the landscaping requirements of Section 17.78.

4. Lot area

There is no minimum lot area for this district.

5. Height

Structures within 250 feet of a residential low density zone shall not exceed 35 feet in height. Structures within 250 feet of a residential medium density zone shall not exceed 45 feet in height. The building height shall be determined as defined in Section 17.04.160 of the GHMC. The maximum building height shall also be limited by the city building and fire codes. Definitions within the city building and fire codes shall be used to determine height for compliance with the applicable building and fire code.

6. Lot coverage

There is no maximum lot area coverage except as needed to meet setback, buffer and landscaping requirements.

7. Off-Street Parking

Off-street parking and loading areas meeting the requirements of Section 17.72 shall be provided.

8. Exterior Mechanical Devices

All HVAC equipment, pumps, heaters and other mechanical/electrical devices shall be screened from view from all public right-of-way.

9. Outdoor Storage of Materials

Outdoor storage of materials and supplies, except for authorized sales displays, shall be completely screened from adjacent properties and public right-of-way.

10. Outdoor Lighting

Within one hundred feet of any residential use or zone, outdoor lighting and aerial mounted floodlighting shall be shielded from above in such a manner so that the bottom edge of the light shield shall be below the light source. Such lighting shall be shielded so that direct illumination shall be confined to the property boundaries of the light source. Outdoor lighting shall be shielded so as not be directly visible from SR-16. Ground mounted floodlighting or light projection above the horizontal plan is prohibited between midnight and sunrise. Temporary outdoor lighting intended to advertise a temporary promotional event shall be exempt from this requirement.

11. Trash Receptacles

Trash receptacles shall be screened from view. Screening shall be complementary to building design and materials.

12. Design

The requirements of the City of Gig Harbor Design Guidelines Manual shall apply to all

commercial development.

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

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

APPROVED:

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

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Mark E. Hoppen, City Administrator

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

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

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

of the City of Gig Harbor, Washington

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On the \_\_\_\_ day of \_\_\_\_\_, 1995, the City Council of the City of Gig Harbor, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO LAND USE AND ZONING CODE ADDING A NEW CHAPTER 17.45 EMPLOYMENT DISTRICT**

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 1995.

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

**AN ORDINANCE OF THE CITY OF GIG HARBOR RELATING TO LAND USE STANDARDS AND ZONING CODE ADDING NEW CHAPTER 17.65 (SPECIAL USE PERMITS)**

WHEREAS, the Growth Management Act requires that local government planning under the act must adopt development regulations which implement comprehensive plans;

WHEREAS, the current zoning code, which was last updated in 1991, is in need of refinement to reflect current state law;

WHEREAS, updating the zoning code to provide a special use permits section is in the public's health, interest, welfare and safety as it implements the goals and policies of the amended City of Gig Harbor Comprehensive Plan of November, 1994 and provides greater flexibility in the administration of the city land use code; NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new chapter 17.65 of the Gig Harbor Municipal Code is hereby adopted, to read as follows:

Chapter 17.65  
SPECIAL USE PERMITS

Sections:

- 17.65.010 Intent.
- 17.65.020 Procedure.
- 17.65.030 General conditions.
- 17.65.040 Review criteria.
- 17.65.050 Expiration.
- 17.65.060 Transfer of a special use permit.
- 17.65.070 Revocation of a special use permit.
- 17.65.080 Appeal of the administrator's decision on a special use permit.
- 17.65.090 General criteria.

**17.65.010 Intent.**

Certain uses, because of their infrequent occurrence and temporary nature, are classified as special uses. These types of uses are temporary in nature, of limited duration and may be associated with special events or promotions. These uses may be allowed in certain zoning districts by a special use permit granted by the administrator.

**17.65.020 Procedure.**

A special use permit shall be subject to the following review procedures and requirements:



A. Application. An application for a special use permit may be filed by the property owner, a lessee of the property or authorized agent of the property owner. The application shall be submitted in writing and be accompanied by the required plans and data. These applications shall be submitted to the planning department for review.

B. Investigation. The planning director shall make an investigation to determine whether a proposed special use would be in accordance with the comprehensive plan and this chapter, whether the use would be injurious to the public health, safety or welfare, and whether the use would be detrimental to other properties in the vicinity.

C. Granting or Denial. The decision may include special restrictions or conditions deemed necessary or desirable in furthering the intent of the ordinance pertaining to the proposed use.

D. Conditions. The conditions may:

1. Stipulate the exact location of the use as a means of minimizing potential hazards, nuisances or property damage;
2. Require special structural features, equipment or site treatment, as necessary;
3. Limit the duration, hours of operation and timing of the use.

#### **17.65.030 General conditions.**

In considering whether to grant special uses, the administrator shall be satisfied that the minimum standards set for uses specified in this title will be met. In addition, the administrator shall consider the criteria listed in this section and the standards as set forth in this chapter. The administrator may require the applicant to submit whatever reasonable evidence may be needed and may stipulate additional conditions to protect the public interest. The burden of proof rests with the applicant.

#### **17.65.040 Review criteria.**

Each determination granting a special use permit shall assure that the following conditions are met:

A. That the type of use for which the special use permit is applied for is specified by the respective zoning district as permitted within, and is consistent with the description and purpose of the zone district in which the property is located;

B. That the granting of the special use permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements in such vicinity and/or zone in which the property is located;

C. That the proposed use is properly located in relation to the other land uses in the vicinity, and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets;

D. That the site is of sufficient size to accommodate the proposed use .

#### **17.65.050 Expiration.**

Any special use permit granted by the administrator is valid for a period of up to 30 consecutive days.

**17.65.060 Transfer of a special use permit.**

A special use permit shall not be transferable to any other person, firm or corporation.

**17.65.070 Revocation of a special use permit.**

A special use permit may be revoked for one or more of the following reasons:

- A. That the approval was obtained by fraud or that erroneous information was presented by the applicant;
- B. That the use for which approval was granted has not been exercised;
- C. That the use is being exercised contrary to the conditions of approval, or in violation of any statute, ordinance, law or regulation.

**17.65.080 Appeal of the administrator's decision on a special use permit.**

Any aggrieved person may file a request for reconsideration or appeal in accordance with the procedures established pursuant to GHMC 17.10.150 and 17.10.160.

**17.65.090 General criteria.**

Special uses shall meet the following general criteria:

- 1. Maximum occupied site area shall not exceed 28 square feet in area.
- 2. The special use may not operate more than 7 events during the authorized period.

An event is equal to one 12-hour period per day.

- 3. A request for more than two special use permits per calendar year or any use which occupies more than 28 square feet in area shall not be considered as a special use and may only be authorized as a conditional use, subject to the requirements in Section 17.64 of this Title.

**17.65.100 Exceptions**

The Planning Director may authorize a special use permit for a specific event not meeting the criteria in 17.65.090 if the event is 21 consecutive days or less in duration during the calendar year and meets the following general criteria:

- 1. The event does not create significant noise, light, glare or excessive traffic to neighboring residential streets.
- 2. The hours of operation are limited to 8:00am to 6:00pm.

All other requirements of the Gig Harbor Municipal Code shall be applicable.

**17.65.110 Exemptions**

The following activities or uses are exempt from obtaining a special use permit:

- 1. Annual Christmas tree and fireworks sales.
- 2. Community wide events such as annual art fairs, street fairs, etc.
- 3. Events approved for use at a city park or facility.

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

clause or phrase of this ordinance.

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

APPROVED:

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

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Mark E. Hoppen, City Administrator

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

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

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

of the City of Gig Harbor, Washington

---

On the \_\_\_\_ day of \_\_\_\_\_, 1995, the City Council of the City of Gig Harbor, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR RELATING TO LAND USE AND ZONING CODE ADDING A NEW CHAPTER 17.65, SPECIAL USE PERMITS

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 1995.

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

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE PROCEDURES AND DUTIES OF THE LAND USE HEARING EXAMINER, REPEALING CHAPTER 17.10, AND ADDING A NEW CHAPTER 17.10 TO THE GIG HARBOR MUNICIPAL CODE.

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

Section 1. Chapter 17.10 of the Gig Harbor Municipal Code is hereby repealed.

Section 2. A new chapter 17.10 of the Gig Harbor Municipal Code is hereby adopted, to read as follows:

**CHAPTER 17.10**  
**HEARING EXAMINER**

Sections:

17.10.010	Creation of Hearing Examiner System
17.10.020	Appointment and Term
17.10.030	Qualifications
17.10.040	Freedom from Improper Influence
17.10.050	Conflict of Interest
17.10.060	Ex Parte Communications
17.10.070	Rules
17.10.080	Powers
17.10.090	Authority
17.10.100	Hearing Examiner's Decision
17.10.110	Reconsideration
17.10.120	Appeals

17.10.010 Creation of Hearing Examiner System. The office of the Gig Harbor Hearing Examiner, hereinafter referred to as the examiner, is hereby created. The examiner shall interpret, review and implement land use regulations as provided by ordinance and may perform other quasi-judicial functions as are delegated by ordinance. Unless the context requires otherwise, the term examiner as used in this chapter shall include deputy examiners and examiners pro tem.

17.10.020 Appointment and Term. The Council shall appoint the examiner for a term of \_\_\_\_\_ ( ) years. The Council may also appoint deputy examiners or examiners pro tem in the event of the examiner's absence or inability to act.

17.10.030 Qualifications. Examiners shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings and to discharge other delegated functions. Examiners shall hold no other elective or appointive office or position with City government.

17.10.040 Freedom from Improper Influence. No person, including City officials, elected or appointed, shall attempt to influence an examiner in any matter pending before him or her, except at a public hearing duly called for such purpose, or to interfere with an examiner in the performance of his or her duties in any other way; provided, that this section shall not prohibit the City Attorney from rendering legal service to the examiner upon request.

17.10.050 Conflict of Interest. The examiner shall be subject to the same code of ethics as other appointed public officers in code cities, as set forth in RCW 35A.42.020 and chapter 42.23 RCW, as the same now exists or may hereafter be amended.

17.10.060 Ex Parte Communications.

- A. The examiner shall not communicate, directly or indirectly, regarding any issue in a proceeding before him or her, other than to participate in communications necessary to procedural aspects of maintaining an orderly process, unless he or she provides notice and opportunity for all parties to participate; EXCEPT as provided in this section:
1. the examiner may receive aid from legal counsel;
  2. the examiner may communicate with staff members (except where the proceeding relates to a code enforcement investigation or prosecution);
- B. If, before serving as the examiner in a quasi-judicial proceeding, the examiner receives an ex parte communication of a type that could not properly be received while serving, the examiner, promptly after starting to serve, shall disclose the

communication as described in subsection C below.

- C. If the examiner receives an ex parte communication in violation of this section, he or she shall place on the record: (1) all written communications received; (2) all written responses to the communications; (3) a memorandum stating the substance of all oral communications received, and all responses made; and (4) the identity of each person from whom the examiner received any ex parte communication. The examiner shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a written rebuttal statement on the record.

17.10.070 Rules. The examiner shall have the power to prescribe rules for the scheduling and conduct of hearings and other procedural matters related to the duties of his or her office.

17.10.080 Powers. The examiner shall have the authority to:

- A. receive and examine available information;
- B. conduct public hearings in accordance with chapter 42.32 RCW and all other applicable law, and to prepare a record thereof;
- C. administer oaths and affirmations;
- D. issue subpoenas and examine witnesses, provided that no person shall be compelled to divulge information which he or she could not be compelled to divulge in a court of law;
- E. regulate the course of the hearing;
- F. make and enter written findings of fact and conclusions to support his or her decisions;
- G. at the examiner's discretion, hold conferences for the settlement or simplification of the issues;

- H. conduct discovery;
- I. dispose of procedural requests or similar matters;
- J. take official notice of matters of law or material facts;
- K. issue summary orders in supplementary proceedings, and
- L. take any other action authorized by or necessary to carry out this chapter.

The above authority may be exercised on all matters for which jurisdiction is assigned to the examiner by City ordinance, code or other legal action of the City Council. The nature of the examiner's decision shall be as specified in this chapter and in each ordinance or code which grants jurisdiction to the examiner.

17.10.090 Authority. The examiner shall have the exclusive authority to hold public hearings make recommendations and decisions on all applications, permits or approvals in Title 16, "Subdivisions", Title 17, "Zoning", Title 18 "Environmental Policy/Wetlands/Critical Areas".

17.10.100 Hearing Examiner's Decision. Within twenty-one (21) calendar days of the conclusion of a hearing unless a longer period is agreed to in writing by the applicant, the examiner shall render a written decision which shall include the following, at a minimum:

- A. Findings based upon the record and conclusions therefrom, which support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the City's Comprehensive Plan, other development regulations, policies and objectives.
- B. A decision on the application may be to approve, deny or approve with such conditions as the examiner finds necessary to make the application consistent with all applicable law, ordinances and policies.
- C. A statement of the procedure and time-frame for appeal of a hearing examiner decision.

17.10.110. Reconsideration.



- A. **Grounds.** Any person may file a request for the examiner's reconsideration of his or her decision upon the following grounds:
1. the existence of newly discovered evidence which is material to the examiner's decision and which could not reasonably have been produced at the examiner's public hearing;
  2. the examiner exceeded his jurisdiction;
  3. the examiner's decision was based upon an error of law or fact.
- B. **Time to file.** A request for reconsideration shall be filed with the Planning Department within fourteen (14) days after issuance of the examiner's written decision. The method for computation of time for filing a request for reconsideration is set forth in Section 17.10.120(A)(3) below.
- C. **Effect.** A request for reconsideration does not stay the effectiveness of the examiner's written decision. The filing of a request for reconsideration is not a prerequisite for seeking an appeal of the examiner's decision to the City Council.

17.10.120 Appeals.

- A. **Appeals to the City Council.** Appeals of the examiner's decision where the decision is not final and conclusive, shall be governed by the following:
1. **Standing.** A person has standing to appeal the examiner's decision if that person is aggrieved or adversely affected by the examiner's decision.
  2. **Time to File.** An appeal of the examiner's decision must be filed within fourteen (14) calendar days following issuance of the examiner's written decision. Appeals may be delivered to the Planning Department by mail, personal delivery or by fax before 5:00 p.m. on

the last business day of the appeal period.

3. **Computation of Time.** For the purposes of computing the time for filing a request for reconsideration or appeal, the date the examiner's decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the city's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next business day. (RCW 35A.21.080.)
4. **Content of Appeal.** Appeals shall be in writing, be accompanied by an appeal fee, and contain the following information:
  - a. appellant's name and address;
  - b. appellant's statement describing his or her standing to appeal;
  - c. identification of the application which is the subject of the appeal;
  - d. appellant's statement of grounds for appeal and the facts upon which the appeal is based;
  - e. the relief sought, including the specific nature and extent; and
  - f. a statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.
5. **Effect of Appeal.** The timely filing of an appeal shall stay the effective date of the examiner's decision until such time as the appeal is adjudicated by the Council or withdrawn.

- B. **Appeals to Court.** Where the examiner's decision is final and conclusive, with right of appeal to court, the procedures for appeal shall be followed as set forth in the applicable statute, ordinance or code governing the individual application, permit or approval.

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

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

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

ATTEST/AUTHENTICATED:

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

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

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

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

of the City of Gig Harbor, Washington

---

On the \_\_\_\_ day of \_\_\_\_\_, 199\_\_, the City Council of the City of Gig Harbor, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE PROCEDURES AND DUTIES OF THE LAND USE HEARING EXAMINER, REPEALING CHAPTER 17.10, AND ADDING A NEW CHAPTER 17.10 TO THE GIG HARBOR MUNICIPAL CODE.**

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_.

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**CITY ADMINISTRATOR, MARK HOPPEN**



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS**  
**FROM: PLANNING STAFF** *S.O.*  
**DATE: OCTOBER 23, 1995**  
**SUBJECT: ARABELLA'S LANDING - SPR 94-05, CUP 94-06, VAR 95-08**

### **INTRODUCTION/BACKGROUND**

The current proposal is to expand Arabella's Landing by adding retail/office space and also a new building which will house a yacht club. On page 4 of the August 23, 1995 staff report, the parking requirements for the proposed use within the Waterfront Millville zoning district were outlined. It was determined in the report that proposed parking was inadequate. The parking issue was discussed at length with the applicant's attorney who disagreed with the staff's interpretation of the zoning code's parking requirements for Waterfront Millville. Not conceding that the project did *not* meet parking requirements, the applicant nonetheless submitted an application for a parking variance. The parking variance was denied by the Hearing Examiner. He is therefore recommending that the site plan also be denied due to inadequate parking. The Examiner approved the conditional use permit for the yacht club, but denied the parking variance. In effect, the yacht club is approved subject to the provision of adequate parking. In the body of the Examiner's report, the Hearing Examiner suggested that provision of adequate parking may involve a revision to the site plan.

The Examiner's decision/recommendation was rendered September 22, 1995. Notice of the Examiner's decision was sent to the applicant and all parties of record with an appeal deadline October 7, 1995. Because October 7th landed on a Saturday, and because Monday was a national holiday, the deadline was automatically extended to the following Tuesday, or October 10th. The following appeals of the Hearing Examiner's decision were submitted.

Mr. Peter Katich - Appeal of the conditional use permit approval - submitted October 6, 1995 with an amended appeal filed October 9, 1995.

Mr. Robert Frisbie - Appeal of the conditional use permit approval - submitted October 5, 1995

Mr. Stanley Stearns and Gig Harbor Marina, Inc., d/b/a Arabella's Landing, by Mr. Thomas Oldfield, their attorney - Appeal of Conditional use permit approval and variance denial - submitted October 10, 1995.

The appellants' letters are attached for the Council's review. Also attached are the staff and Hearing Examiner reports, and a draft resolution denying the requested site plan.

## **POLICY**

GHMC Section 17.10.160 outlines the process for appeals which stipulates that appeals shall be considered based upon the record established and made at the hearing held by the hearing examiner. Parties of record may submitted written comments in support of their position and, in addition, the council shall allow each side no more than 15 minutes of oral testimony. No new evidence or testimony shall be presented to the council during the oral testimony. The city council shall accept, modify or reject any findings or conclusions, or remand the decisions of the examiner for further hearing; provided, that any decision of the city council shall be based on the record of the hearing conducted by the examiner; however, the council may publicly request additional information of the appellant and the examiner at its discretion.

## **STAFF COMMENTS**

The staff's recommendation on the requested site plan, conditional use permit and variance is stated in the report to the Examiner dated August 23, 1995. The staff recommended denial of the variance and site plan, and approval of the conditional use permit, subject to conditions. The staff's recommendation remains basically unchanged. Comments on the letters of appeal are as follows:

### **Frisbie Appeal:**

Mr. Frisbie's contention that parking may be located on adjacent sites with no opportunity for his review takes the discussion to a level that was not considered by the Hearing Examiner. The Examiner neither recommended or suggested that parking be located off-site. Rather, he stated that the site plan should be revised to provide adequate parking. Discussion of an off-site parking arrangement may therefore not be considered on appeal. Moreover, if parking were to be proposed on a site not previously approved for parking, site plan review would be required and Mr. Frisbie would have an opportunity to comment on the site plan at that time.

Another item introduced by Mr. Frisbie that was not part of the record made at the public hearing refers to a settlement agreement between Ellsworth & Thornhill and the City of Gig Harbor, dated February 6 1992. The agreement pertains to the development of street parking for public use including patrons of the Stanich Dock. There is nothing in the agreement which limits Dorotich Street parking for private use, nor has Mr. Stearns proposed use of Dorotich Street for his parking requirements. Again, this is not an appropriate topic for appeal because it involves submittal of new evidence.

The staff understands Mr. Frisbie's concern over the lack of specificity on the location of required parking for a conditional use. The nature of the conditional use process allows a more detailed analysis of impacts associated with a specified use. Parking may indeed contribute to impacts of the use, depending on required parking, where the parking is located and how it will be managed. This is certainly a topic the Council may wish to consider.

#### Katich Appeal:

The two letters submitted by Mr. Katich provide only a general statement of concerns regarding the Hearing Examiner's action. Mr. Katich's October 6, 1995 letter states that the Conditional Use Permit is not consistent with all criteria set forth by Code. Without further details, the staff is unable to comment on this matter. Mr. Katich's October 9, 1995 letter expresses disagreement with the Examiner's finding (#10) that adequate public notice was provided. Mr. Katich raised this issue at the public hearing because he believed that mailed notice should have been sent at least 10 days prior to the hearing. The staff explained that Section 17.01.070 states published notice in a local newspaper must be given at least 10 days prior to the public hearing, but that there is no time stipulation for mailed notices. The staff contends that proper legal notice was given on this application.

#### Stearns\Oldfield Appeal:

In his appeal letter for Mr. Stearns, Mr. Oldfield contends that the Hearing Examiner interpreted applicable provisions of the Gig Harbor Municipal Code incorrectly, and improperly failed to apply the code to material facts. Again, without further details, the staff cannot adequately comment on this matter. However, the staff and the applicant have disagreed on the code's parking requirements since the on-set of this proposal and this may be the issue the applicant is appealing. Parking requirements were discussed at length in the staff report and were also considered by the Hearing Examiner. It is therefore an appropriate topic for appeal.

**CITY OF GIG HARBOR  
RESOLUTION #\_\_\_**

**WHEREAS**, Monument Construction has requested site plan approval for the expansion of Arabella's Landing at 8215 Dorotich Street; and,

**WHEREAS**, the expansion includes office/retail space and also space for a yacht club; and

**WHEREAS**, the proposed site plan does not provide code-required parking as per GHMC Section 17.72.030(Q) and Section 17.48.070; and

**WHEREAS**, the expansion will require a parking variance for the reduction of 27 parking spaces; and

**WHEREAS**, the yacht club requires conditional use permit approval; and

**WHEREAS**, the City of Gig Harbor Hearing Examiner conducted a public hearing on the applications on August 23, 1995 to accept public comment on the site plan, variance and conditional use request; and,

**WHEREAS**, the City of Gig Harbor Hearing Examiner has made specific findings and conclusions and has denied the requested variance, approved the conditional use permit subject to conditions, and has recommended denial of said site plan in his report dated September 22, 1995; and,

**WHEREAS**, the Hearing Examiner's decision on the parking variance and conditional use permit have been appealed to the City Council by the owner of Arabella's Landing, Mr. Stanley Stearns, and his attorney, Mr. Thomas Oldfield; and

**WHEREAS**, the Examiner's decision on the conditional use permit have been appealed to the City Council by Mr. Robert Frisbie and Mr. Peter Katich; and

**WHEREAS**, Section 17.10.160 of the Gig Harbor Municipal Code establishes procedures for hearing appeals of the Hearing Examiner's decision, and

**WHEREAS**, the Gig Harbor City Council has adopted Ordinance #489 which establishes guidelines for the reviewing of site plans; and,

**WHEREAS**, the City Council, during its regular meeting of October 23, 1995 reviewed the proposed site plan and the findings and recommendation of the Hearing Examiner; and also heard the appeals of Messrs. Stearns & Oldfield, Mr. Robert Frisbie, and Mr. Peter Katich; and



**WHEREAS**, the City Council has determined that the Hearing Examiner's decision on the parking variance and conditional use permit is consistent with City codes and policies regulating the same; and

**WHEREAS**, the City Council has determined that the recommendation of the Hearing Examiner to deny the site plan due to the lack of code-required parking is consistent with City codes and policies regulating site plan development;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Gig Harbor, Washington, as follows:

That the findings, conclusions, decisions and recommendations of the hearing Examiner in his report dated September 22, 1995 , are hereby adopted and the site plan and variance are denied. The conditional use permit is approved subject to the conditions stipulated in the Examiner's report which are as follows:

1. The site plan must be revised to comply with all provisions of the code and must be approved by the Gig Harbor City Council before the subject Conditional Use permit becomes effective.
2. The parking lot on the site shall be open at all times during normal business hours of commercial businesses on the site and accessible to all yacht club patrons.
3. The yacht club and the patrons thereof shall comply with all noise and public conduct requirements established by City code. Between the hours of 7:00 p.m. and 7:00 a.m., all activities pertaining to the yacht club shall be indoors. Entertainment involving music or dance during these hours shall be conducted indoors with doors and windows closed.
4. Use of the yacht club shall be limited to normal yacht club activities and shall not be available for special events such as weddings, anniversaries or other special events which would encourage use of automobiles to attend the event.
5. The bylaws submitted as Exhibit F shall be the bylaws of the Arabella's Landing Yacht Club under this Conditional Use Permit. Any change in the bylaws will require an amendment to the Conditional Use Permit.

**PASSED** by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the Council held on this 23rd day of October, 1995.

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Gretchen A. Wilbert, Mayor

ATTEST:

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Mark E. Hoppen  
City Administrator/Clerk

Passed by City Council: 10/23/95

**CITY OF GIG HARBOR  
HEARING EXAMINER  
FINDINGS, CONCLUSIONS AND DECISION/RECOMMENDATION**

---

**APPLICANT:** Monument Construction, Inc., for Stanley Sterns (Arabella's Landing)  
**CASE NO.:** SPR 94-05, CUP 94-06, VAR 95-08  
**LOCATION:** 8215 Dorotich Street  
**APPLICATION:** Request approval of:

- site plan for the proposed Arabella's Landing commercial/retail and office space;
- conditional use permit to allow a Yacht Club; and
- variance from the parking standards of the Zoning Code.

**SUMMARY OF STAFF RECOMMENDATION AND HEARING EXAMINER DECISION/RECOMMENDATION:**

**Staff Recommendation:** Deny the site plan and the variance. Approve the conditional use permit, with conditions

**Hearing Examiner**

**Decision/Recommendation:** Deny the site plan and the variance. Approve the conditional use permit, with conditions

**PUBLIC HEARING:**

After reviewing the official file which included the Community Development Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Arabella's Landing application was opened at 5:03 p.m., August 23, 1995, in the City Hall, Gig Harbor, Washington, and closed for oral testimony at 7:53 pm. The hearing was held open administratively through close of business on September 8, 1995. Participants at the public hearing and the exhibits offered and entered are listed in the this report. A verbatim recording of the hearing is available in the Planning Department.

**HEARING TESTIMONY:**

The following persons testified at the public hearing:

From the City:

Steve Osguthorpe, Associate Planner

From the Applicant:

Stan Sterns, Applicant  
Tom Oldfield, Attorney  
Ned Sterns, Marina Manager  
Julia Brown-Sterns, Marina Manager

From the Community:

Peter Katich	Tomi Kent Smith
Mark Robinson	Carol Davis
Adam Ross, Jr.	Joe Davis
Ron Ray	Bob Frisbie
Grant Wiltbank	Dick Allen
Evan Steensland	

**WRITTEN COMMENTS:**

Written comments were submitted by the following:

From the Applicant:

Thomas Oldfield, Attorney

From the Community:

Dag Hauge	Paul Kadzik, DDS
Linda and Bruce Dishman	Tomi Kent Smith
Sherry Ross	Carol Davis
Raymond Pierce	Tony and Marie Lovrovich
Ron and Sharon Nicholl	Clark and Nancy Eaton
Stephen and Sandra Anderson	Mary Jacobson

**FINDINGS, CONCLUSIONS AND DECISION/RECOMMENDATION:**

Having considered the entire record in this matter, the Hearing Examiner now makes and enters the following:

**A. FINDINGS:**

1. The information contained in Sections I through IV of the Planning Staff Advisory Report (Hearing Examiner Exhibit A) is found by the Hearing Examiner to be supported by the evidence presented during the hearing and by this reference is adopted as a part of the Hearing Examiner's findings of fact. A copy of said report is available in the Planning Department.

2. The applicant has requested approval of a site plan, a conditional use to allow a yacht club and a variance from the parking standards to build a structure on the uplands of an existing marina.

The proposal is to build a structure which would house:

- 4,430 square feet of office/retail
  - 2,625 square feet of yacht club assembly area (less 825 square feet for kitchen and foyer area)
  - 6,615 square feet for open plaza area.
  - 13,670 square feet total.
3. The staff report (Exhibit A) indicates the above proposal would be required to provide the following number of parking stalls:
    - 30 for the yacht club assembly area
    - 15 for the retail/office space
    - 41 for the 51 existing moorage slips
    - 4 for the existing duplex
    - 2 for the existing single family residence
    - 92 Total required parking stalls
  4. Total on-site parking which would be provided with this proposal is 65 code-standards spaces (19 of which would be in a parking garage below the plaza level).
  5. The subject site has approximately 63,000 square feet of upland property.
  6. The proposed new structures would be more than 200 feet from the Ordinary High Water Mark (OHWM) and would be outside the Shoreline Master Program's jurisdiction.

A portion of the project site is within 200 feet of OHWM. This includes approximately a four foot encroachment of the area occupied by the existing garage (which is to be demolished) and portions of the parking lot and landscaping which will be revised. The portion of the project which lies within 200 feet of OHWM may be processed administratively as a revision to SDP 92-02.
  7. The structure is proposed to be 24 feet above the main plaza level. The main plaza level will be at the same grade as the sidewalk along Harborview Drive. The applicant wishes to apply the performance standards for increased height that were also applied to the renovated house near the street.
  8. The applicable land use policies and codes which the Examiner must consider in this case are listed in Section III of Exhibit A.
  9. Included with Exhibit A was a set of the applicant's proposed plans.
  10. The property was posted and legal notice was sent to property owners within 300 feet and published in the Peninsula Gateway. Notice was also sent to all parties of record.

Parties of record were established at the previous public hearing on this application and the Hearing Examiner was provided with a copy of all public input.

11. The applicant submitted a lengthy Declaration of Intent which is included in Exhibit A provides information and arguments to support the request. At the hearing, he argued in favor of approval of the application and submitted bylaws for Arabella's Landing Yacht Club (Exhibit F), Articles of Incorporation of Arabella's Landing Yacht Club ( G), Summer Moorage Volume (Exhibit H), Visiting Yacht Clubs and Groups (Exhibit I), Yearly Estimated Gross Income to Town (Exhibit J) and Boaters Responses (Exhibit K).
12. The applicant's attorney also argued in favor of the application at the hearing and submitted letters on August 30, 1995 and September 8, 1995 (Exhibits O and W). The letters responded to concerns and issues raised by residents and argued in favor of the request. One of the key issues he raised was that he believed staff misinterpreted the code with respect to parking required for the proposed yacht club.
13. Several neighbors wrote letters (Exhibits B, C, D, E, L, M, P, Q, R, S, T and U) and/or testified in opposition to the proposal at the hearings. Their allegations included the following:
  - a. The proposal is not consistent with other uses and structures in Waterfront Millville.
  - b. The proposal does not provide adequate parking.
  - c. Views and property values will be negatively impacted.
  - d. The conditions of approval recommended by staff for the CUP are unenforceable.
  - e. Inadequate notice was given of the hearing.
  - f. Proposed view corridors in the structure are inadequate.
14. Two persons wrote letters of support (Exhibits N and V) and one resident testified in support of the application at the hearing.

## B. CONCLUSIONS:

1. Variance from parking requirements:
  - a. After reviewing the arguments offered by the applicant and his attorney as well as the arguments offered by staff and others who testified on the issue of parking, the Examiner has concluded the following:
    1. GHMC 17.48.070 requires that parking be provided in accordance with chapter 17.72 GHMC, except where there are multiple uses (as in this case) then parking requirements are additive and should be provided for each and every use.  
It is well-known locally that there is a general shortage of parking in the Waterfront Millville District. Therefore, it is believed that the provision in GHMC 17.72.030(q)(4) which allows parking requirements to be combined and effectively reduced in mixed use developments does not apply in the Waterfront

Millville District. Rather, it is believed the language found in GHMC 17.48.070 was designed to supersede GHMC 17.72.030(q)(4) in the Waterfront Millville District.

Therefore, if the proposal is to be approved as requested, a variance from the parking requirements will be necessary.

b. Compliance with the Variance Criteria:

1. The proposed variance will not amount to a rezone nor authorize any use not allowed in the district.
2. There are no special conditions and circumstances applicable to the property such as size, shape, topography or location, not applicable to land in the same district and which a literal interpretation of the provisions of this ordinance would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this ordinance. On the contrary, the large size and gentle slope of the applicant's parcel allows more development opportunities than most other parcels in the Waterfront Millville zone in which the parcel is located. Other nearby developments cited by the applicant as similar examples either comply with the existing code provisions, met the criteria for approval of a variance, or were approved in accordance with previous code provisions.
3. In this case, the applicant has cited the unique nature of his proposed yacht club as a special circumstance. He has argued that the bulk of the yacht club members will arrive by boat, not by car. He contends his proposal should not be held to the same parking requirements as a typical yacht club. Therefore, the applicant is in a sense asking for a use variance, not a typical dimensional variance. While a yacht club is conditionally allowed as a use in the Waterfront Millville zone, it is only allowed if it meets all of the criteria and standards including parking. Here, the applicant has argued that his yacht club should not be held to the same standard as other yacht clubs and that a variance from the parking requirements is warranted.
4. The granting of the variance will constitute a grant of special privilege inconsistent with limitation upon other properties in the vicinity and zone. As noted above, other properties in the area either comply with existing code provisions, met the criteria for approval of a variance, or were approved in accordance with previous code provisions. None of the nearby developments can be looked to as a basis for approval of this variance request.
5. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in

which the property is situated if use of the yacht club facility is limited to boat traffic, but it will be detrimental to the public welfare if the yacht club is served extensively by automobile traffic.

It is believed that conditions of approval which would limit the use of the club to those patrons or members coming by boat would be largely unenforceable and the use of a security gate (as recommended by the applicant) may actually result in exacerbating the parking problem in the area if people without proper security clearance come to the yacht club by automobile.

6. The variance is not the minimum variance necessary to make a reasonable use of the land. A marina with a marina building, a duplex, a single family house, a boathouse, a shed and two garages already exist on the property. One garage is to be demolished as part of this proposal and could still be demolished to provide space for a more intense use, but something less in intensity than is proposed at this time.
  - c. Before a variance can be granted, the Examiner must find that all of the circumstances found in GHMC 17.66.030.B exist. In this case, no such finding can be made. Therefore, the variance from parking standards should be denied.
  - d. Staff was correct in its comment found in Exhibit A, that if it can be demonstrated that the parking standard applied to yacht clubs is excessive due to the yacht clubs' association with marinas, then a text amendment to the parking standards of the code may be appropriate and such amendment could be legislated to apply to all such yacht clubs.
  - e. If off-site parking is provided in accordance with the code, a variance from parking standards would not be necessary.
2. Conditional Use Permit to allow a yacht club:
    - a. A Conditional use is a use that has been legislatively determined to be allowed within a given zone if appropriate conditions can be imposed to ensure its compatibility with those uses which are permitted as a matter of right within that zone. A conditional use thus carries a fairly heavy assumption of acceptability within the zone it includes. In consideration of any conditional use permit application, the Examiner is required to consider the degree of compatibility which would exist between the use and its particular surroundings and may impose such conditions as are necessary to ensure compatibility. If compatibility can be ensured, then the permit should be approved.
    - b. The proposed yacht club is conditionally permitted within the Waterfront Millville zone provided it is determined to be compatible with surrounding uses.
    - c. The granting of a conditional use permit to allow a yacht club on the subject site will not be detrimental to the public health, safety, comfort, convenience and general



welfare, provided that it meets the code requirements for parking, that its hours of operation are limited to minimize adverse impacts on the established character of the surrounding neighborhood, and that its use be limited to yacht club activities only.

- d. The yacht club is proposed to be located on the site in such a manner that the office/retail uses would serve as a buffer between the yacht club and the single family residences on Harborview. Also, the yacht club as proposed can be adequately served by public facilities and street capacities without placing an undue burden on those facilities and streets.

The site, while large for the Waterfront Millville District, is not of adequate size to accommodate code required parking for all of the uses within the structure proposed. The yacht club for which the conditional use permit is required should only be approved if adequate parking can be provided. Therefore, the site plan will need to be revised to provide adequate parking for the yacht club.

3. Site Plan:

- a. The proposed development is consistent with allowed or conditionally allowed uses in the Waterfront Millville zone.
- b. The proposal is generally consistent with the goals and policies stated in the city's comprehensive plan;
- c. The proposed development is more than 200 feet from the shoreline and therefore does not require a shoreline substantial development permit;
- d. The proposed site plan provides only 70 percent of the code required parking and is not consistent with the city's zoning ordinance. Therefore, the proposed site plan should not be approved as requested. If the proposal is reduced in intensity with respect to parking, or if parking is provided off-street in accordance with the code, the site plan will be reviewed again by the City.

C. DECISION/RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions:

1. The requested Conditional Use Permit to allow a yacht club is approved subject to the following conditions:
  - a. The site plan must be revised to comply with all provisions of the code and must be approved by the Gig Harbor City Council before the subject Conditional Use permit becomes effective.
  - b. The parking lot on the site shall be open at all times during normal business hours of commercial businesses on the site and accessible to all yacht club patrons.
  - c. The yacht club and the patrons thereof shall comply with all noise and public conduct requirements established by city code.

Between the hours of 7:00 p.m. and 7:00 a.m., all activities pertaining to the yacht club shall be indoors. Entertainment involving music or dance during these hours shall be conducted indoors with doors and windows closed.

- d. Use of the yacht club shall be limited to normal yacht club activities and shall not be available for special events such as weddings, anniversaries or other special events which would encourage use of automobiles to attend the event.
  - e. The bylaws submitted as Exhibit F shall be the bylaws of the Arabella's Landing Yacht Club under this Conditional Use Permit. Any change in the bylaws will require an amendment to the Conditional Use Permit.
2. The requested variance from parking standards is denied.
  3. It is recommended that the proposed site plan be denied since it does not meet the parking requirements.

Dated this 22nd day of September, 1995.



Ron McConnell  
Hearing Examiner

**RECONSIDERATION:**

Any aggrieved person feeling that the decision of the Examiner is based on erroneous procedures, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing, may make a written request for reconsideration by the Examiner within ten (10) days of the date the decision is rendered. This request shall set forth the specific errors of new information relied upon by such appellant, and the Examiner may, after review of the record, take further action as he or she deems proper.

**APPEAL OF EXAMINER'S DECISION ON THE CONDITIONAL USE PERMIT AND VARIANCE:**

Any party who feels aggrieved by the Examiner's decision may submit an appeal in writing to the Gig Harbor Planning Director within (14) days from the date the final decision of the Examiner is rendered, requesting a review of such decision.

Such appeal shall be upon the record, established and made at the hearing held by the Examiner. Whenever a decision of the Examiner is reviewed by the City Council pursuant to this section, other parties of record may submit written memoranda in support of their position. In addition, the Council shall allow each side no more than fifteen minutes of oral presentation. However, no new evidence or testimony shall be presented to the Council during such oral presentation. The City Council shall accept, modify or reject any findings or conclusions, or remand the

decisions of the Examiner for conclusions, or remand the decisions of the Examiner for further hearing; provided that any decision of the City Council shall be based on the record of the hearing conducted by the Examiner; however, the Council may publicly request additional information of the appellant and the Examiner at its discretion.

Upon such written appeal being filed within the time period allotted and upon payment of fees as required, a review shall be held by the City Council. Such review shall be held in accordance with appeal procedures adopted by the City Council by resolution. If the Examiner has recommended approval of the proposal, such recommendation shall be considered by the City Council at the same time as the consideration of the appeal.

Further action by the Examiner shall be within thirty (30) days of the reconsideration request.

#### **COUNCIL ACTION ON THE SITE PLAN:**

Any application requiring action by the City Council shall be taken by the adoption of a resolution or ordinance by the Council. When taking any such final action, the Council shall make and enter Findings of Fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance or rezone of property, the ordinance shall not be placed on the council's agenda until all conditions, restrictions, or modifications which may have been stipulated by the Council have been accomplished or provisions for compliance made to the satisfaction of the Council.

The action of the Council, approving, modifying, or reversing a decision of the Examiner, shall be final and conclusive, unless within twenty (20) business days from the date of the Council action an aggrieved party of record applies for a Writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action taken.

#### **EXHIBITS:**

The following exhibits were offered and entered into the record:

- A. Community Development Department Staff Report, as corrected
- B. Letter from Dag Hauge, dated 8/22/95
- C. Letter from Paul Kadzik, D.D.S., dated 8/22/95
- D. Letter from Linda and Bruce Dishman, dated 8/23/95
- E. Letter from Tomi Kent Smith, dated 8/22/95
- F. By-laws for Arabella's Landing Yacht Club
- G. Articles of Incorporation of Arabella's Landing Yacht Club
- H. Summer Moorage Volume
- I. Visiting Yacht Clubs and Groups
- J. Yearly Estimated Gross Income to Town
- K. Boaters Responses
- L. Letter from Sherry Ross, dated 8/20/95
- M. Letter from Carol Davis, dated 8/23/95

- N. Letter from Raymond Pierce, dated 4/19/95
- O. Letter from Thomas Oldfield, dated 8/30/95, with attached photos
- P. Letter from Tony and Marie Lovrovich, dated 9/2/95
- Q. Letter from Ron and Sharon Nicholl, dated 9/4/95
- R. Letter from Clark and Nancy Eaton, dated 9/5/95
- S. Letter from Carol Davis, dated 9/5/95
- T. Letter from Stephen and Sandra Anderson, dated 9/6/95
- U. Letter from Tomi Kent Smith, dated 9/6/95
- V. Letter from Mary Jacobson, dated 9/6/95
- W. Letter from Thomas Oldfield, dated 9/8/95

**PARTIES OF RECORD:**

John Kerr  
Monument Construction, Inc.  
4021 Firdrona Drive, N.W.  
Gig Harbor, WA 98332

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3323 Harborview Dr. N.W.  
Gig Harbor, WA 98335

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City of Gig Harbor. The "Maritime City."  
3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**GIG HARBOR COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**TO:** Hearing Examiner  
**FROM:** Planning Staff  
**DATE:** August 23, 1995

**RE:** SPR 94-05 - Arabella's Landing commercial/retail office space  
CUP 94-06 - Conditional Use Permit allowing Yacht Club  
VAR 95-08 - Parking Variance

---

**I. GENERAL INFORMATION**

**APPLICANT:** Monument Construction Inc.  
4021 Firdrona Dr. N.W.  
Gig Harbor, WA 98332

**OWNER:** Stanley D. Stearns  
3323 Harborview Drive N.W.  
Gig Harbor, WA 98335

**AGENT:** John G. Kerr, Monument Construction Inc.

**II. PROPERTY DESCRIPTION**

1. **Location:** 8215 Dorotich Street - Tax assessor's parcel # 02-21-05-008-7, 6
2. **Site Area/Acreage:** (unknown)
3. **Natural Site Characteristics:**
  - i. **Soil Type:** Harstine Gravelly sandy loam
  - ii. **Slope:** Average 10% slope
  - iii. **Drainage:** Easterly toward water
  - iv. **Vegetation:** Nursery-stock landscaping in uplands; marine aquatic vegetation within and along the shoreline frontage.

4. **Zoning:**

- i. **Subject parcel:** WM - Waterfront Millville
- ii. **Adjacent zoning and land use:**
  - North:** WM - Residential and commercial
  - South:** WM - Marina
  - East:** Gig Harbor Bay
  - West:** R-1 - Single family residential

5. **Utilities/road access:** The parcel abuts both Harborview and Dorotich Street and is accessed off of Dorotich Street. The parcel is served by City sewer and water.

**III. APPLICABLE LAND-USE POLICIES/CODES**

1. **Comprehensive Plan:** The parcel is designated as Waterfront on the City's Comprehensive Plan Land Use Map. Waterfront areas are intended to provided for "a variety of mixed uses along the waterfront which are allowed under the City of Gig Harbor Shoreline Master Program and as more particularly defined under the zoning code. Generally, the lower intensity waterfront areas would favor residential marinas while the more intense use waterfront areas would provide for higher density residential and commercial/retail uses" (pg. 9)

Waterfront Design is addressed in the design element of the comprehensive plan (pages 24 - 25) and states the following goals.

Goal: Preserve Visual Points of Interest.

Goal: Identify, preserve, and develop an appropriate waterfront architecture.

Goal: Develop the waterfront as a place of outdoor people activity.

Policies relating to these goals are detailed in the plan.

Landscape Design is addressed in the design element of the comprehensive plan (pages 28 - 30).

Goal: Preserve the natural ambiance of the Harbor area.

Goal: Enhance the building environment with formal landscaping and consistent street furnishing.

Goal: Control vegetation to preserve significant views.

Goal: Preserve significant vegetation while maintaining significant views.

Shoreline Management is addressed on pages 71 - 73 and includes the following goals:

Goal: Preserve and protect the unique, interdependent relationship between the water, land and cultural heritage.

Goal: Retain a mixed use waterfront including those fishing, boating, tourist and residential uses which provide the shoreline unique appeal.

Goal: Define and enforce the highest quality standards concerning present and future land use developments within the waterfront areas.

## **2. Zoning Ordinance:**

**INTENT:** Section 17.48.010 states that the intent of the Waterfront Millville district is to "provide a wide range of uses and activities on the shoreline of Gig Harbor located within the area between Rosedale Street and Stinson Avenue. This district serves primarily as a medium intensity, mixed use waterfront district with an emphasis on medium-density residential, marine-dependent and marine-related uses. Uses which enhance the historic fishing village atmosphere and which are harmonious with surrounding residential areas are encouraged."

**USES:** Section 17.48.020 states that Marinas and boat launch facilities, professional offices, marine-related sales, and wholesale and retail sales of fisheries products for human consumption are permitted uses.

Section 17.48.030 states that Yacht clubs may be authorized as a conditional use

Section 17.48.035 limits the operations for delicatessens and coffee houses to the hours of 7:00 a.m. to 7:00 p.m., daily.

**SETBACKS:** Section 17.48.040 states that required setbacks in the WM zone are as follows:

Front - 20 feet

Side - 10 feet

Side abutting street - 10 feet

Impervious coverage - 70% for nonresidential

**BUILDING HEIGHT:** Section 17.48.060 states that the maximum building height is 16 feet. Additional height of up to 24 feet may be permitted if two additional waterview/access opportunities area provided and the following:

1. the structure shall not exceed two stories or floors in height.
2. Each story or floor shall be less than or equal to 10 feet in height as measured from the top of the first floor to the top of the second floor.
3. There shall be no occupancy of the attic space.
4. The pitch of the roof shall have a minimum slope of 1:2 (6:12 pitch) and a maximum slope of 1:1 (12:12 pitch).



**PARKING REQUIREMENTS:** Section 17.72.030(Q) outlines parking requirements for moorage, stating that, "If commercial or residential development is to be combined with a watercraft usage requiring parking, the usage which generates the larger number of spaces shall satisfy the requirements of the other usage.

However, Section 17.48.070 regulates parking in the waterfront Millville area as follows: "Parking and loading facilities on private property shall be provided in accordance with the requirements of Chapter 17.72 GHMC, except that where there are properties serving multiple uses, parking shall be provided for the combined total of the individual uses."

The statement pertaining to the parking in the Waterfront Millville (WM) area was a revision to the zoning code and was added after the statement in the general parking standards, which suggests that the general parking standards were not intended to supersede the WM parking standards. This is documented by referring to the City's pre-1990 zoning code. The general parking standards in the old zoning code allowed for a combined use in determining parking requirements for moorage and other uses on the same site. The statement in the current WM section did not exist in what was then referred to as the W-1 zone (now referred to as WM).

**PERFORMANCE STANDARDS:** Section 17.48.090(E) Identifies performance standards for waterview opportunities and waterfront access.

**CONDITIONAL USE CRITERIA:** Section 17.64.040 outlines the review criteria for a conditional use which are as follows:

- A. That the use for which the conditional use permit is applied for is specified by this title as being conditionally permitted within the zone, and is consistent with the description and purpose of the zone district in which the property is located;
- B. That the granting of such conditional use permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements in such vicinity and/or zone in which the property is located;
- C. That the proposed use is properly located in relation to the other land uses and to transportation and service facilities in the vicinity and; further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets;
- D. That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and other such features as are required by this title or as needed in the opinion of the examiner.

**VARIANCE CRITERIA:** Section 17.66.030 outlines the review criteria for a variance which

are as follows:

- A. The proposed variance will not amount to a rezone nor authorize any use not allowed in the district.
- B. There are special conditions and circumstances applicable to the property such as size, shape, topography or location, not applicable to land in the same district and that literal interpretation of the provisions of this ordinance would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this ordinance.
- C. That the special circumstances and conditions do not result from the actions of the applicant.
- D. The granting of the variance will not constitute a grant of special privilege inconsistent with limitation upon other properties in the vicinity and zone.
- E. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated.
- F. The variance is the minimum variance that will make possible the reasonable use of the land.

### **3. Shoreline Master Program**

The shoreline Master program regulates all commercial development within 200 feet landward of the Ordinary High Water Mark (SMP pg. 4).

The Shoreline Master Program regulates parking for moorage as follows:

- A. One space for every two berths of moorage less than forty-five feet in length.
- B. One space for every berth of moorage forty-five feet or greater.

### **IV. BACKGROUND INFORMATION:**

Arabella's Landing was originally approved in 1985 (SPR85-12/SDP85-02) as the Dorotich Marina and the shoreline permit was reapplied for and approved as SDP92-02 in 1992. A revised plan was approved on December 11, 1989. The revision included an expansion of the approved marina service building. The project was initially approved for 48 slips and 51 parking spaces. However, the staff has counted 51 moorage slips on the existing site plan for the marina. According to the size of the slips indicated on the site plan, 41 parking stalls are required for the existing moorage.

Arabella's Landing includes two view/access opportunities including the provision of a public fishing pier and two transient moorage slips. These were utilized to allow increased height to

a recently renovated house on the site and the applicant proposes to use these for increased height on proposed new development.

**V. REQUEST/PROJECT DESCRIPTION:**

The current proposal is a revision to Site Plan 85-12 and will involve a minor modification of the existing parking lot within the shoreline jurisdiction.

The proposal is to build a structure housing 4,430 square feet of office/retail space, 2625 square feet for yacht club assembly area (less 825 sq.ft. for kitchen and foyer area), and 6615 square feet for open plaza area. Total square footage proposed is therefore 13,670 square feet. This will require 30 parking stalls for the yacht club assembly area, 15 parking stalls for the retail/office space, 41 spaces for moorage, 4 parking spaces for the existing duplex on the property, and 2 parking spaces for the existing single family residence on the parcel. The combined parking requirement is 92 parking spaces.

The proposed new structure will be more than 200 feet of the Ordinary High Water Mark and therefore outside the Shoreline Master Program's jurisdiction. A portion of the project site is within 200 of OHWM. This includes approximately a 4 foot encroachment of the area occupied by the garage (which is to be demolished) and portions of the parking lot and landscaping which will be revised. That portion of the project within 200 feet of OHWM may be processed administratively as a revision to SDP92-02. The new building will be located on the northwest corner of the property. This corner has the highest natural grade on the site, which provides a greater advantage in building height. The structure is proposed to be 23 feet to the top of the ridge, or 24 feet above the main plaza level. The main plaza level will be approximately the same grade as the Harborview Drive sidewalk level.

A parking garage is proposed below the plaza level which will be accessed from the back (east) side of the structure, via the existing surface parking lot. The parking garage will have 19 code-standard stalls.

The surface parking was originally approved with 69 spaces. The parking garage will result in a net loss of 2 spaces. An additional 2 spaces were recently lost due to a driveway approach into the Bayview Parcel from Arabella's parking lot. Total on-site parking for this proposal (both surface and garage parking) will therefore be 65 code-standard spaces (assuming that the grass-crete area on the existing lot will be utilized for parking).

The applicant has submitted the following statement describing the project (shown in italics):

*DECLARATION OF INTENT  
SPR-94-05*

## ARABELLA'S LANDING MARINA

### PROJECT SCOPE

*Arabella's Landing Marina has established itself as a destination marina. No other Marina in Gig Harbor provides the quality and quantity of transient moorage. Arabella's Marina provides Showers, Restrooms, Meeting facilities, Pumpout station, Storage lockers and Garbage disposal. The only element which remains to be constructed is a Club House for the marina. A portion of the proposed building will be utilized as the Arabella's Landing Yacht Club (17.48.030) Other areas of the proposed building will be set aside for, Professional offices, Marine related sales, Wholesale and retail sales of fisheries products for human consumption. (17.48.020)*

### ZONING

*Arabella's Landing Marina was established under the Gig Harbor Zone of Waterfront Millville (WM) Chapter 17.48., SPR-94-05 will be an amendment to SDP-92-02 (Dorotich Marina). SPR-94-05 is outside of the 200 foot set back of the Shoreline therefore it will not require approval under the Shoreline Master Plan.*

### IMPERVIOUS COVER

*The foot print of the proposed building is within the site plan of SDP-92-02, the footprint is covered by a metal garage and asphalt parking lot, there will be approximately a net increase of impervious cover of 860 square feet.*

### HEIGHT

*The height of the proposed building is 23 feet to the top of the ridge. The increased building height is pertinent to section (17.48.060) of Chapter 17.48 (WM).*

### PARKING

*The assembly area capacity for the yacht club is set forth on page 3 of the drawings prepared by Mr. Huri. This results in a maximum capacity of 120 persons. At one parking space per four persons, this requires 30 spaces. The remainder of the building has floor space of 4,430 sq.ft. At 300 sq.ft. per parking space, this requires 15 parking spaces. This is a total of 45 spaces. Upon completion, the site will contain 67 parking spaces (less two spaces which were eliminated to allow access to Bayview Marina), including 4 handicapped parking spaces.*

*With regard to the adequacy of the parking, it continues to be our contention that these requirements are governed by 17.72.030(q)(4). The building to be constructed under this proposal clearly generates the larger number of spaces. This would leave an excess of 22 spaces on the site.*

*Alternatively, Arabella's Landing Marina has established itself as a destination marina. Twelve of the sixty-eight marina moorage spaces are limited to transient moorage. In*

*addition, permanent moorage patrons make their slips available for transient moorage when they are out of the marina. As a result, more than 40% of the total moorage space is typically available for transient moorage. Applying the rationale utilized by the City with regard to the extension of the City public dock, parking is not required for transient moorage. This would eliminate a parking requirement of 13 slips for the marina facility. Thus, the required parking for multiple uses would be met by the parking available on site.*

*Alternative - Request for Variance if Necessary.*

*In the event that you continue to disagree with our interpretation of the parking requirements, please consider this amendment also to be a request for a variance with regard to the parking requirement to eliminate required parking for 40% of the moorage slips in Arabella's Landing Marina, which slips are utilized for transient moorage, and do not generate substantial parking demand. This variance request is made pursuant to 17.66.030. The requirements of 17.66.030(B) are addressed as follows:*

- 1. The proposal will not amount to a rezone nor authorize any use not allowed in the district. The use of property is solely for uses allowed within the Waterfront Millville Zone.*
- 2. Special conditions and circumstances exist which are peculiar to the land, including the fact that the property has been developed partly as a marina, which is a watercraft related use, and more than 40% of that marina is utilized for transient moorage. Transient moorage patrons arriving by water do not impose any parking requirement on the uplands, and the proposed total parking on site is more than adequate to meet ;the parking requirements of all improvements on the property. Further, a literal interpretation of the provisions of this title, as applied by the City of Gig Harbor, would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district. These include:*
  - a. The Ellsworth dock, directly adjacent to this property has both commercial and pleasure boat moorage, with no parking area at all.*
  - b. The Puratich property was granted a building permit for a 2400 sq.ft. garage and storage building within 200 ft. of the shoreline of Gig Harbor Bay without a shoreline substantial development permit and without any requirement for providing on-site parking. Under WAC 17.72.030(o) this building would require 5 parking places.*
  - c. The Dag Hauge property at 3419 Harborview was granted a building permit with parking based solely on the floor area and occupancy of the buildings on the property, with no requirement for parking based upon moorage area at the dock on the site. At the time the building permit was granted, and continually since then, the dock has been used for pleasure boat moorage.*

- d. *Harbor Place Marina at 3501 Harborview. Parking is not required for 4 slips at this marina, based upon a covenant that those slips will be used exclusively by the adjacent condominium owners. This is consistent with the concept expressed in GHMC 17.72.030(q)(4) regarding combining of a watercraft usage with a commercial or residential development.*
3. *The special conditions and circumstances do not result from the actions of the applicant. The applicant is developing a building which will be utilized in large part as a watercraft related usage. The primary access for that use will be by boat. Access for those persons utilizing the yacht club facility will be restricted and monitored, pursuant to the conditions of a Conditional Use Permit, to limit the number of patrons who will arrive by automobile. If the same floor area were allowed in the district, the yacht club floor area would only require 9 parking spaces, and the entire building would require only 24 parking spaces. Thus, the same or a larger structure could be built on the site for a non-watercraft related use under the existing regulations.*
4. *Granting of the variance requested will not confer a special privilege that is denied other lands in the same district. As outlined under subparagraph 2 above, numerous other properties in the same district have been granted the same or considerably more generous privileges. The interpretation and application of parking requirements requested herein is more restrictive than has been applied to properties all along the waterfront on both sides of this property.*
5. *The granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone. These concerns are addressed by conditions which are proposed for a conditional use permit requested in this same proceeding.*

#### *SECURITY GATES*

*The building parking area will remain open during normal business hours and will only be accessible in off hours to those persons who have security clearance.*

In a later correspondence, the applicant indicated that, in reference to Section 17.72.030(M) & (Q), they have ample parking and will not be utilizing the Bayview parking lot for the proposed building parking requirements.

In response to the conditional use request for the yacht club, the applicant has submitted the following statement which addresses the conditional use criteria stated in Section 17.64.040.

*(a) GHMC 17.48.030(b) allows yacht clubs as a conditional use in a Waterfront Millville zone. The intent of the Waterfront Millville zone includes a mixed use waterfront district with an emphasis on medium density marine dependent and marine related uses. A yacht club is clearly a marine related use, and on this site will specifically be related to the large amount*

*of transient overnight moorage provided by the Arabella's Landing Marina.*

*(b) The existing site already incorporates a marina, a marina services building for storage, showers, laundry, etc. related to the marina, and three residence units. There are both residential and commercial uses surrounding the site. In addition to several residences, there are other marinas, piers and net sheds, a bed and breakfast, a law office, a store, a semi-derelict museum (now used for retail sales), and a building containing a restaurant and retail area. A yacht club will be consistent with these surrounding neighborhood uses, and probably less detrimental to the surrounding neighborhood, than a number of the specifically permitted uses in Waterfront Millville, such as boat repair and sales facilities, boat construction facilities, wholesale and retail sales of fisheries products, or live bait sales.*

*(c) The proposed yacht club is located on a site which provides all of the parking required by the code. It is on Soundview Drive, one of the main streets in Gig Harbor. In connection with prior site development, Dorotich Street was widened and improved to provide access and additional off-street parking for the site. It is presently served by all utilities. The proposed use will not place any undue burden on any such facilities.*

*(d) The proposed development will have (19) parking spaces under the buildings. In addition, there are 45 or more additional parking spaces on the site. The site is landscaped extensively with planting beds and shrubs, trees, yards, open spaces, walls and fences, all of which exceed the requirements of the code. In fact, the site could be developed with substantially more parking and impervious cover, but the owner has deliberately chosen to provide these additional amenities to enhance the asthenic quality of the project.*

The following conditional use criteria were submitted by the applicant on April 19, 1995:

In connection with the site plan for the Arabella's Landing Yacht Club development, the applicant submits the following conditions to be adopted by the hearing Examiner as conditions to the granting of the conditional use permit for the yacht club facility, to assure that the use will not be detrimental to the public health, safety, comfort, convenience and general welfare, and will otherwise comply with the criteria of GHMC Ch. 17.64:

#### CONDITIONS

1. that the yacht club operated on the site shall be a sanctioned yacht club affiliated with the Pacific International Yachting Association and U.S. Sailing.
2. The parking lots on the site shall be accessible at all times during normal business hours of commercial businesses on the site and while the yacht club facility may arrive by automobile, as measured over a weekly period.
3. No more than 50% of the patrons utilizing the yacht club facility may arrive by automobile, as measured over a weekly period.
4. The yacht club and the patrons thereof shall comply with all noise and public conduct requirements established by city code.

**VI. PUBLIC NOTICE:** The property was posted and legal notice was sent to property owners within 300 feet and published in the Peninsula Gateway. Notice was also sent to all parties of record. Parties of record were established at the previous public hearing on this application and the Hearing Examiner was provided with a copy of all public input. The project has been revised since the previous meeting and no formal input has been received on the current proposal as of August 9, 1995.

**VII. ANALYSIS:** The staff believes that the design of the project is superior to the minimum code requirements and that it will compliment the architectural character of the Millville area. The project is consistent with many of the goals and objectives stated in the Design Element of the Comprehensive Plan.

This project has involved some rather complicated issues pertaining to height allowances and parking. The applicant wishes to apply the performance standards for increased height that were also applied to the renovated house near the street. Technically, the renovated house is on a parcel separate from that which the performance standards were based upon. However, it is on the same site plan originally approved for Arabella's Landing. If the standards are applied to additional development, the staff believes that the site should either be recorded as a binding site plan or the separate parcels should be combined into one parcel number.

#### **PARKING:**

The staff's prime concern with this development is the lack of required parking. The staff disagrees with the applicant's interpretation of the zoning code pertaining to the combined parking allowance under the general parking standards (section 17.72). The parking standards in the Millville section state that "Parking and loading facilities on private property shall be provided in accordance with the requirements of Chapter 17.72 GHMC, except that where there are properties serving multiple uses, parking shall be provided for the combined total of the individual uses." The combined total of the individual uses, as stated previously, is 92 parking spaces. The site plan includes only 65 parking spaces. The project therefore provides 71 percent of the required parking. Contrary to the applicant's believe that the general parking standard pertaining to multiple waterfront uses was adopted after and superseded the Waterfront Millville parking standard, the city's old zoning code (available at the Planning Department) shows that the restriction in the Millville parking standard (17.48.070) was adopted after the general parking standard's provision for combined uses was adopted (17.72.030(Q)4). It is the staff's interpretation, therefore, that the Millville standard was intended to be more restrictive than the general parking standards. The applicant was advised that the staff's position on this matter remains unchanged. The applicant has therefore applied for a parking variance, but has not conceded that the proposed parking does *not* meet current code requirements. While discussing this with the Staff, the applicant indicated that the uses which might be considered separately for determining parking requirements include the office and retail uses. These are clearly separate from the marina, but the applicant has indicated that the yacht club is part of the marina activity and therefore has parking under the marina parking requirement. Moreover, the code states that permitted uses in the WM zone include "Piers, docks, wharfs and associated buildings." (GHMC 17.48.020(J)).



The staff agrees that the code assumes buildings in conjunction with marinas. Certainly, the marina was approved with associated buildings including the marine service building and the net shed, with no requirements for additional parking. However, the code lists yacht clubs separately as a conditional use implying that parking will also be considered separately.

Section 3.11 of the Shoreline Master Program states that marinas and moorage facilities provide commercial moorage, launching, storage for watercraft, including services, supplies, parking and other supporting activities. This gives strong support to the applicant's position that the yacht club is a supporting activity of the marina. However, considering the yacht club as part of the marina for purposes of determining parking and conditional use review requires that the entire marina be evaluated rather than a small portion of the marina lying outside the shoreline jurisdiction. If we are to be consistent with the Shoreline Master Program's language pertaining to marinas and moorage facilities, then the policies which regulate marinas and moorage facilities within the Master Program should also be applied. It seems inconsistent to suggest that the yacht club is part of the marina for determining parking requirements, but then conclude that it is not part of the marina for determining Shoreline Jurisdiction. This is an important distinction because, (a) if yacht clubs do not require additional parking regardless of shoreline jurisdiction, then parking should not have been required for the Gig Harbor yacht club located on Stinson Avenue, and (b) if a yacht club is to be consistent with Shoreline Master Program policies pertaining to marinas then view protection should also be a consideration (see SMP policies on pg. 30).

Regarding the applicant's variance request, the staff does not agree that the applicant is being denied uses which other property owners enjoy under the terms of current ordinances. The off-site development identified by the applicant (i.e., Stanich Dock, Puratich's garage, and Dag Hauge's office building) were either developed under previous codes or conform to current codes. These are addressed as follows:

Stanich Dock. Stanich (Ellsworth) Dock, located at 8218 Dorotich Street, received a conditional variance to reduce its parking from 8 spaces to 5 spaces. Two of the spaces are provided on-site and three are provided within 100 feet of the site. The reduced parking was granted subject to limitations on the number of vessels which can be moored at the facility and the construction of off-site street improvements. The Council did find that a site specific hardship exists.

Puratich Garage. The Puratich garage, located at 3421 Harborview Drive, did not require a shoreline permit because it was proposed and built as a garage for a single family residence. Single family development is exempt from shoreline permit requirements. While the garage is unusually large for single family purposes, the zoning code does not limit the size of garages, nor does it specify what residents may or may not store in a garage. Finally, because the site is developed for residential use, only residential parking requirements apply and no landscaping standards apply. Impervious coverage is the only restriction and tidelands may be used to meet this requirement.

Dag Hauge's Office Building. The office building which was recently built on Dag Hauge's property at 3419 Harborview Drive received shoreline approval in 1988. It was determined at that time that the project must provide 13 parking spaces to meet code requirements. (The

pre-1990 code required one parking space for each two-thousand square feet of floor area or for each four employees, whichever is greater, and one space for each moorage slip). The city had no landscaping requirements at that time, nor was there an expiration date for site plan approval.

Harbor Place Marina. The Harbor place Marina, located at 3501 Harborview Drive, received approval to add 8 new slips to its existing dock. Required parking for the expanded dock is 16 spaces. There are 16 surface parking spaces on-site plus double-car garages for each condominium. Four moorage slips have, by a recorded agreement, been reserved for the use of four condominiums.

Jerisich Park Dock. The applicant's statement that parking is not required for transient moorage because of the rationale utilized by the City with regard to the extension of the City public dock is not correct. Code parking requirements for moorage are not based upon whether the moorage is transient or not. The City requested a variance from the parking standards for the Jerisich Park Dock to allow for *public* transient moorage which is located on public property, the parking of which is provided for on public right-of-ways. Technically, the park does provide on-site parking because the park is on the same parcel as the public street. This was clearly stated in the variance application. It was not clear if a variance was even necessary. However, it was determined that because the proposal provided no off-street parking (which on-site parking typically implies) a variance should be applied for to meet the normal expectation of the parking requirements.

#### YACHT CLUB:

The staff's primary concern over the requested conditional use permit for a yacht club is whether or not the yacht club will have the same impacts as a restaurant. Restaurants are not allowed in the area, but delicatessens and coffee houses may (like a yacht club) be considered as a conditional use. Hours for deli's and coffee houses are limited to 7:00 a.m. to 7:00 p.m. daily. Regardless of how a yacht club is defined, the staff believes that use of the facility for banquets, dinners or similar activities allowing drive-in patrons and which may include entertainment activities involving music and dance may have impacts on the neighborhood similar to a delicatessen or coffee house. Because delis and coffee houses have restricted hours of operation, it follows that similar uses should also be subject to the same hours of operation. This is particularly important for the proposed yacht club because it is located directly across the street from single family residences. This would not be such a concern if the building were set further back from the existing houses. The staff will therefore be recommending that yacht club activities between the hours of 7:00 p.m. and 7:00 a.m. be restricted to boat traffic only and be limited to indoor uses.

Additional Staff and/or agency comments are as follows:

Building Official: Please consider the following as my comments to the application for the project stated above:

1. Fire flow must be provided to within 150 FT of all portions of the building in accordance with the Section 10.401, and Table A-III-A-1, 1991 Uniform Fire Code

2. REQUIRED NUMBER OF HYDRANTS (Table A-III-B-1):

A fire hydrant will be required within 150 FT of all portions of the building, a new fire hydrant must be located on Harborview Drive to accommodate this requirement. In lieu of installing a street hydrant an auto-fire sprinkler system may be used to provide the required protection if first approved as an alternate method of protection (Building Code Advisory Board approval required) and not first required for compliance with other building and/or fire codes.

3. Access around the building must be provided to within 150 FT of all portions of the building in accordance with Chapter 10, 1991 Uniform Fire Code. The building may not encroach into the required (15 FT clear width) marina parking lot fire lanes.
4. The marina parking lot must remain accessible. The existing gate must be modified to provide the required opticom controls for fire equipment access. Modify the main entrance to provide a 24 ft wide access. The 24 ft wide access must be continuous through the Arabella and Bayview Marina parking lots. A recorded easement will be required for the entire length of the 24 ft wide fire lane.
5. One hour construction or an auto-fire sprinkler system will be required in accordance with Chp. 5, 1991 UBC. One hour occupancy separation will be required between the first floor parking garage and the upper floors.
6. Make the entire building accessible to the handicapped.
7. Openings parallel to and within 23 FT of the residence must be protected in accordance with Chapter 5, 1991 UBC.
8. A ladder/snorkel truck setup area will be required on the east side of the building (show setup area on site plan).
9. A Knox Box must be installed to provide access to the building.
10. Provide stairway access from the parking area to the main floor area. The stairway as proposed is not accessible for fire fighting from the parking lot. The existing stairway may be made accessible by opening the east wall adjacent to the stairway (parking stall #9).
11. Modify the entrance from Harborview Dr. (Old Bayview Marina Access) to provide a 24 ft wide access with opticom controlled gate, Knox Box and key.
12. A complete plan review will be completed upon submittal of plans for a building permit.

Public Works: The Public Works Department has stated that they have no comments pertaining to this development.

SEPA Responsible Official: A Determination of Non-significance was issued on February 28, 1995. Although a portion of the project is within 200 feet of OHWM which was not initially identified in the original SEPA document, the scope and intensity of the development proposed within that portion of the SMA jurisdiction would have little impact upon the quality of the shoreline environment. Additional SEPA review is not warranted.

### **VIII. FINDINGS AND CONCLUSIONS:**

Based upon the analysis contained in Part VII of this report, the Staff finds as follows:

#### **SITE PLAN:**

- A. That the proposal development is consistent with allowed or conditionally allowed uses in the zone;
- B. The proposal is generally consistent with the goals and policies stated in the city's comprehensive plan;
- C. The proposed development is more than 200 feet from the shoreline and therefore does not require a shoreline substantial development permit;
- D. The proposed site plan provides only 70 percent of the code required parking and is therefore not consistent with the city's zoning ordinance.

#### **CONDITIONAL USE PERMIT:**

Regarding the request for a conditional use permit allowing the proposed yacht club, the staff finds that:

- A. A yacht club is specified by the city's zoning code as being conditionally permitted within the WM zone, and is consistent with the description and purpose of the WM zone district;
- B. That the granting of such conditional use permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, provided that its use is limited primarily to boat traffic to avoid parking problems, and provided its use between 7:00 p.m. and 7:00 a.m. be restricted solely to boat traffic and be contained indoors.
- C. The proposed use is properly located in relation to the other land uses and to transportation and service facilities in the vicinity and the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets;
- D. The site is not of adequate size to accommodate code-required parking as shown on the submitted site plan. Off-site parking will have to be avoided

The staff concludes that a yacht club may be an appropriate activity in relation to the marina, but a recommendation for approval must be based on the assumption that the proposed site plan and building will be approved.

**VARIANCE:**

- A) The proposed variance will not amount to a rezone nor authorize any use not allowed in the district.
- B) There are no special conditions and circumstances applicable to the property such as size, shape, topography or location, not applicable to land in the same district and which a literal interpretation of the provisions of this ordinance would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this ordinance. On the contrary, the large size and gentle slope of the applicant's parcel allows more development opportunities than most other waterfront parcel.
- C) That the special circumstances and conditions described by the applicant do not represent site-specific hardships, but rather pertain to other parcels developed under previous code requirements.
- D) The granting of the variance will constitute a grant of special privilege inconsistent with limitation upon other properties in the vicinity and zone.
- E) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated if use of the yacht club facility is limited to boat traffic, but will be detrimental to the public welfare if the yacht club is served extensively by automobile traffic.
- F) The variance is not the minimum variance that will make possible the reasonable use of the land. There site provides adequate parking for the existing uses and additional development also.

The staff concludes that the requested variance does not meet the minimum variance criteria. If it can be demonstrated that the parking standard applied to yacht clubs is excessive due to the yacht clubs' association with marinas, a text amendment to the parking standards may be appropriate.

**IX. RECOMMENDATION:**

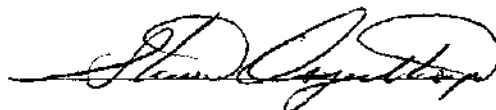
Based upon the above findings and conclusions, the staff recommends the Hearing Examiner forward a recommendation to the City Council to deny the site plan due to insufficient parking and all other findings stated herein.

The staff recommends that the hearing examiner deny the requested variance.

The staff recommends that the Hearing Examiner approve the conditional use permit for a yacht club subject site plan approval of the proposed site plan and structure, and subject to the following additional conditions:

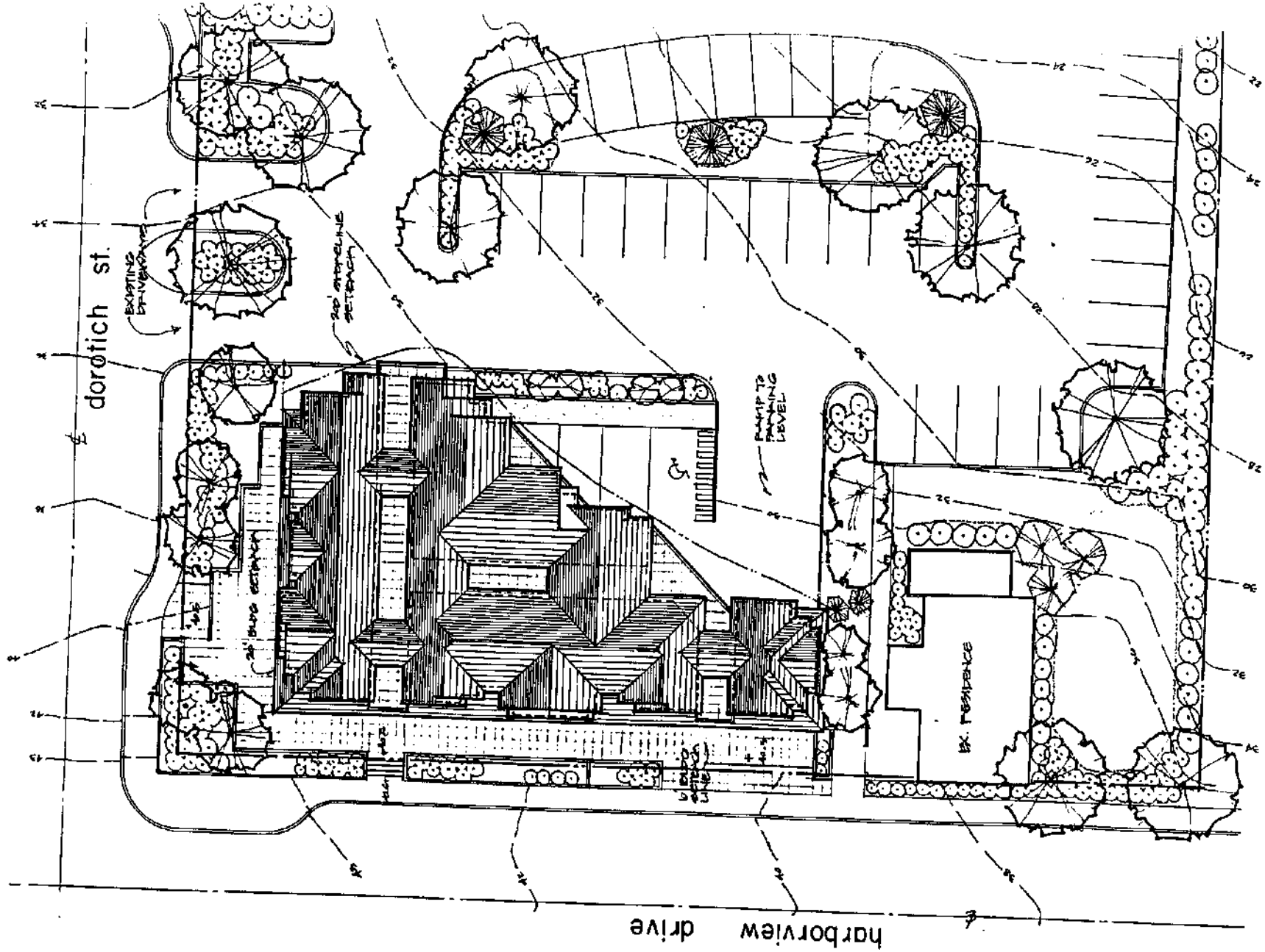
1. That the yacht club operated on the site shall be a sanctioned yacht club affiliated with the Pacific International Yachting Association and U.S. Sailing.
2. The parking lot on the site shall be open at all times during normal business hours of commercial businesses on the site and accessible to all yacht club patrons.
3. The yacht club shall be limited to boat traffic only between the hours of 7:00 p.m. and 7:00 a.m., except that up to nine automobiles may arrive during these hours (which is the equivalent number of vehicles expected for office/retail for the same space).
4. The yacht club and the patrons thereof shall comply with all noise and public conduct requirements established by city code.
5. Between the hours of 7:00 p.m. and 7:00 a.m., all activities pertaining to the yacht club shall either be indoors or conducted on the portion of the site furthest from residential development. Entertainment involving music or dance during these hours shall be conducted indoors with doors and windows closed.

Project Planner: Steve Osguthorpe, AICP  
Associate Planner



Date: 8.22.85

FAUSERS\STEVEO\SPR\ARABELLA\SR-HEX3.WPD



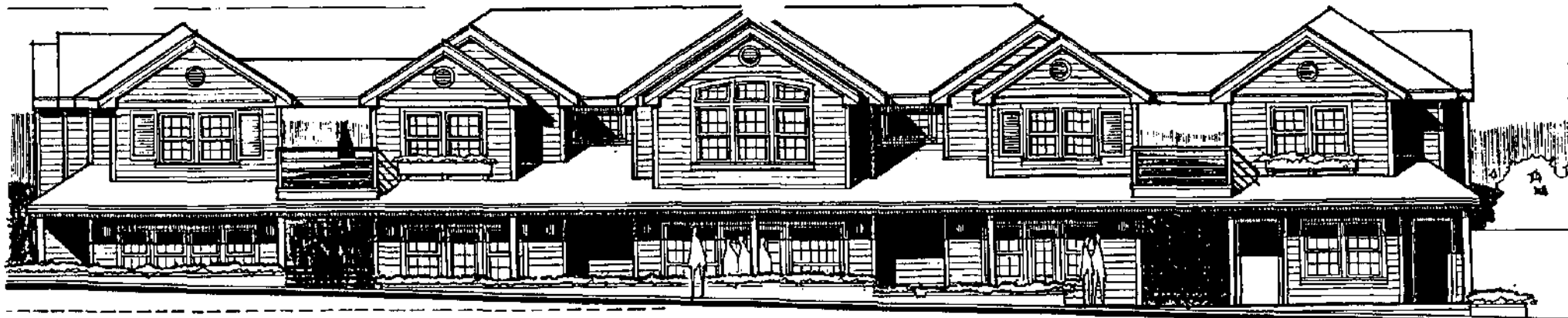
# SITE PLAN

1" = 20'

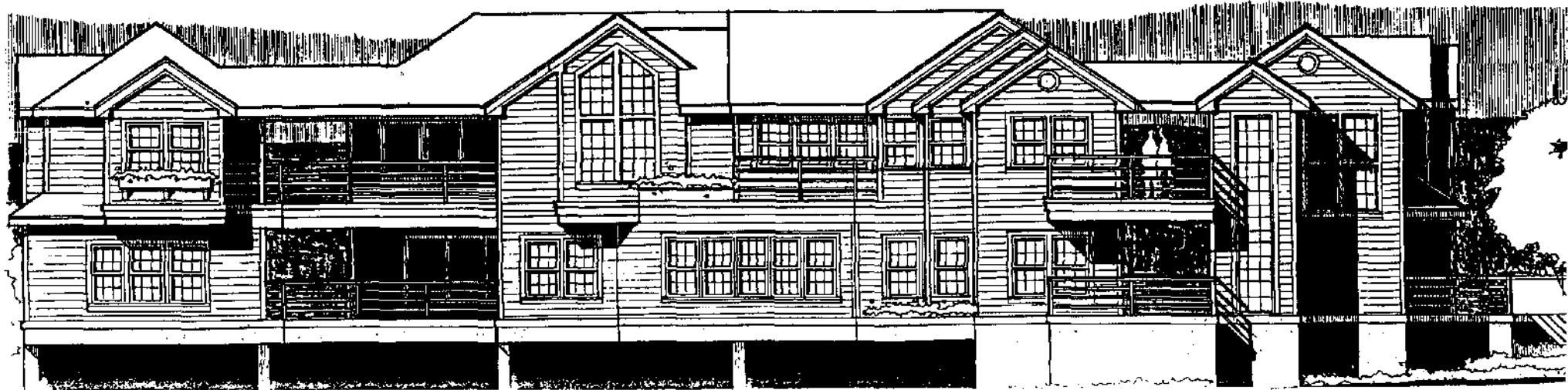
TOPOGRAPHY & OTHER SITE INFORMATION  
 FROM ORIGINAL PLANNING AND LANDING OF  
 BY PROPERTY OWNERS & ASSOCIATES, ET AL

NOTE:

TOPOGRAPHY OF SITE TO BE MATCHED  
 AREA OF NEW 2 STORY STRUCTURE



HARBORVIEW DRIVE



HARBOR ELEVATION





DOROTICH ST. ELEV.

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October 4, 1995

Robert G. Frisbie  
9720 Woodworth Avenue  
Gig Harbor, Wa 98332

City Councilmembers  
City of Gig Harbor  
3105 Judson Street  
Gig Harbor, Wa 98335

Subject: Arabella's Landing Yacht Club - CUP94-06

Dear Sir:

Attached please find my check in the amount of \$100.00 to cover the filing fee for my appeal of the Hearing Examiner's 22nd September 1995 decision regarding the subject Conditional Use Permit. My request is based on what I consider an error in judgement, errors of law and the discovery of new evidence which was not submitted by the applicant and evidence not submitted by the City of Gig Harbor.

1. **Error of Judgement and Errors of Law** Condition 2d, last sentence of the Hearings Examiner's (H.E.) Decision states: *The yacht club for which the conditional use permit is required should only be approved if adequate parking can be provided. Therefore, the site plan will need to be revised to provide adequate parking for the yacht club.*

**POINT.....**As a citizen of the City of Gig Harbor and as a local property owner to the applicant and as a citizen participating in the public hearing process, I have a minimum expectation that must be met by the process under which the Hearings Examiner operates. That minimum expectation was not met when the Hearings Examiner conditioned the CUP to the applicant based on the applicant supplying adequate parking when in fact, the documents submitted into the record do not specifically describe the location of that parking. In the absence of the parking being identified as to specific location, the Hearings Examiner has no choice but to render a decision in the negative on the CUP.

The applicant owns the Bayview Marina to the south of the property described in the application. In addition, the applicant owns two homes on the westerly side of Harborview Drive directly across from the property described in the application. To my knowledge, none of these three properties were ever discussed in the testimony or in the applicants documents. The H.E. by his decision, has now made it possible for the applicant to utilize one or all of these properties to comply with the CUP's

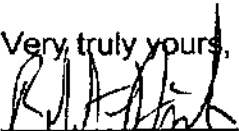
parking provision. In this way, the H.E. has now deprived me of the opportunity to comment on the site plan regarding the parking required to support the Yacht Club. I further contend, that the H.E. under his charter does not have the authority to conditionally approve a CUP in the absence of a full supporting site plan that can be commented on by the public. The H.E. by his decision has now placed himself in the position of the applicant in so far as considering alternatives. The H.E. is in fact a judge and as such must rule on the material in front of him and by the testimony of the hearing. The City Council did not give the H.E. the power to modify CUP applications that were not first changed by the applicant. I have a right to know that the parking is going to be provided, where the parking will be provided and the nature of the supporting amenities i.e. landscaping, irrigation, lighting, paving, street access etc..... before a positive conditional decision is rendered. **This is the very basis of the public hearing process.**

**2. Evidence Not Submitted:**

- a. The City entered into an agreement with Ellsworth and Thornhill regarding the requirement for parking to accomodate their dock at the end of Dorotich Avenue. The agreement allows them the use of a portion of Dorotich from Harborview to the water to satisfy some portion of their parking requirement in exchange for a cash payment which allowed for the curb to curb development of Dorotich. The result is that Dorotich is not available for overflow parking from the applicants property.
- b. The Stanich property on the northerly side of Dorotich has been grandfathered into the code and as a result uses Harborview Drive and Dorotich to supply most of their parking needs. Again, Harborview and Dorotich are called upon to support local commerce in the WM zone.
- c. The applicant could meet the parking requirements if he so chose. This could be accomplished by using one or more of the following alternatives:
  - 1) Include the Bayview Marina upland property in the proposal
  - 2) Remove one or both of the homes he owns on the upper side of Harborview directly across from the proposed development and turn them into parking lots(s).

Neither the applicant nor the City submitted this evidence into the record. I submit that the City Council must find in the negative regarding the CUP because I and the public have a right to know now, at this point in the public process where that "Conditioned" parking will be placed. It is the right of the applicant to resubmit the application at any point in time. It is not the charter of the H.E. to make over the application to meet the Code, that is the obligation of the applicant.

I trust as always that you will make the right decision for Gig Harbor. If you have any questions and/or require additional information, please do not hesitate to contact me at your convenience.

Very truly yours,  
  
Robert G. Frisbie

RECEIVED

OCT 06 1995

CITY OF GIG HARBOR

October 6, 1995

Ray Gilmore, Planning Director  
City of Gig Harbor  
3105 Judson Street  
Gig Harbor, WA 98335

**RE: Notice of Appeal of Hearing Examiner's Decision on Conditional Use Permit 94-06  
(Monument Construction, Inc. for Stanley Sterns-Arabella's Landing)**

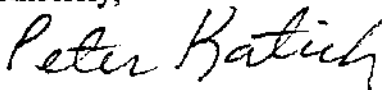
Dear Mr. Gilmore:

Per Section 17.10.160.A of the Gig Harbor Municipal Code (GHMC), and on behalf of Mr. and Mrs. Peter Katich, Mr. and Mrs. Jake Bujacich, Mr. and Mrs. Adam Ross Jr., Mr. and Mrs. Clark Eaton, and Mr. and Mrs. Bruce Dishman, I do hereby appeal the City of Gig Harbor Hearing Examiner's decision on the Conditional Use Permit referenced above. Enclosed with this notice of appeal is a check in the amount of \$100.00 in payment of the required filing fee.

Per Section 17.10.160.B of the Gig Harbor Municipal Code, the appeal is based upon the record established at the August 23, 1995 public hearing conducted for the above referenced matter. Specifically, the Conditional Use Permit is not consistent with all criteria set forth in Section 17.64.040 of the GHMC for the approval of conditional uses.

Should you have any questions or comments, or need additional information, please contact Peter Katich at 858-3304.

Sincerely,



Peter Katich  
3509 Ross Avenue  
Gig Harbor, WA 98332

cc: Jake & Pat Bujacich, 3607 Ross Avenue, Gig Harbor, WA 98332  
Adam & Sherry Ross, Jr., 3504 Ross Avenue, Gig Harbor, WA 98332  
Clark & Nancy Eaton, 8020 Dorotich Street, Gig Harbor, WA 98332  
Bruce & Linda Dishman, 3404 Harborview Drive, Gig Harbor, WA 98332

RECEIVED

OCT 09 1995

CITY OF GIG HARBOR

October 9, 1995

Ray Gilmore, Planning Director  
City of Gig Harbor  
3105 Judson Street  
Gig Harbor, WA 98335

**RE: Amendment to October 6, 1995 Notice of Appeal of Hearing Examiner's Decision on Conditional Use Permit 94-06 (Monument Construction, Inc. for Stanley Sterns-Arabella's Landing)**

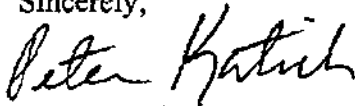
Dear Mr. Gilmore:

On behalf of Mr. and Mrs. Peter Katich, Mr. and Mrs. Jake Bujacich, Mr. and Mrs. Adam Ross Jr., Mr. and Mrs. Clark Eaton, and Mr. and Mrs. Bruce Dishman, I hereby amend the previously filed appeal of the City of Gig Harbor Hearing Examiner's decision on the Conditional Use Permit referenced above.

Per Section 17.10.160.B of the Gig Harbor Municipal Code, the appeal is based upon the record established at the August 23, 1995 public hearing conducted for the above referenced matter. In addition to the grounds for appeal addressed in the October 6, 1995 letter, we wish to appeal the Examiner's decision in regard to his finding (Finding #10) that adequate public notice was provided to all owners of property within 300 feet of the site and to parties of record to the proceeding.

Should you have any questions or comments, or need additional information, please contact Peter Katich at 858-3304.

Sincerely,



Peter Katich  
3509 Ross Avenue  
Gig Harbor, WA 98332

cc: Jake & Pat Bujacich, 3607 Ross Avenue, Gig Harbor, WA 98332  
Adam & Sherry Ross, Jr., 3504 Ross Avenue, Gig Harbor, WA 98332  
Clark & Nancy Eaton, 8020 Dorotich Street, Gig Harbor, WA 98332  
Bruce & Linda Dishman, 3404 Harborview Drive, Gig Harbor, WA 98332

ORIGINAL

NOTICE OF APPEAL OF  
HEARING EXAMINER DECISION

TO: City of Gig Harbor  
3105 Judson Street  
P.O. Box 145  
Gig Harbor, WA 98335

Re: SPR 94-05/VAR95-08/CUP94-06; Hearing Examiner  
Decision on Variance and Conditional Use Permit  
Our File No. 6029.94

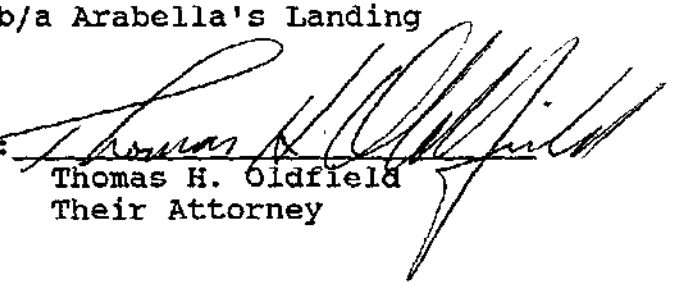
Gentlemen:

Stanley Stearns and Gig Harbor Marina, Inc., the applicant in the above-referenced Conditional Use Permit and Variance Applications, feeling aggrieved at the decision of the Hearing Examiner, hereby appeals that decision to the Gig Harbor City Council. This appeal is on the basis that this hearing examiner interpreted applicable provisions of the Gig Harbor Municipal Code incorrectly, and failed to properly apply that code to material facts.

The filing fee for such appeal, in the amount of \$100.00, is tendered herewith.

DATED this 9th day of October, 1995.

Stanley Stearns and  
Gig Harbor Marina, Inc.,  
d/b/a Arabella's Landing

By:   
Thomas H. Oldfield  
Their Attorney

6029\appeal.not

RECEIVED  
OCT 10 1995  
CITY OF GIG HARBOR

*S.O.*





*City of Gig Harbor. The "Maritime City."*  
3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: TOM ENLOW**  
**DATE: October 12, 1995**  
**SUBJECT: 1996 TAX LEVY ORDINANCE**

### **INTRODUCTION**

This is the first reading of an ordinance setting the 1995 property tax levy.

### **BACKGROUND**

We are required to file this ordinance with the county before we have sufficient information to know the maximum tax available. The preliminary assessed valuation for 1996 taxes is \$340,315,401. This is a 4% increase over 1995. Our best estimate of taxes available in 1996 is \$550,000 which represents a 4.3% increase. However, the assessed valuation is subject to significant change before it is final and we don't know how our rate will be affected by the Fire and Library District requests. The actual tax available may be significantly more.

In order to receive the maximum amount of taxes under the 106% limit without final valuation information, the county assessor's office recommends requesting well over the amount we expect to receive. Therefore, this ordinance is based on a 1996 property tax rate of \$1.910 per thousand raising \$650,000 in taxes. Our 1996 budget will be based on the most accurate information available at the time it is passed, currently \$550,000.

The ordinance also sets excess levy rates for outstanding voted general obligation bonds. Debt service for the 1987 GO Bonds for sewer plant construction is approximately \$140,000 in 1995 or \$0.4114 per thousand.

### **FINANCIAL**

Property taxes are the second largest source of the city's general revenues at approximately 20%.

### **RECOMMENDATION**

Staff recommends adoption of the ordinance at its second reading.

**CITY OF GIG HARBOR**

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

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, LEVYING THE GENERAL PROPERTY TAXES FOR THE CITY OF GIG HARBOR FOR THE FISCAL YEAR BEGINNING JANUARY 1, 1996.**

**WHEREAS**, the City Council of the City of Gig Harbor has considered the city's anticipated financial requirements for 1996, and the amounts necessary and available to be raised by ad valorem taxes on real and personal property, and

**WHEREAS**, it is the duty of the City Council to certify to the board of county commissioners/council estimates of the amounts to be raised by taxation on the assessed valuation of property in the city,

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

Section 1. The ad valorem tax general levies required to raise estimated revenues for the City of Gig Harbor for the ensuing year commencing January 1, 1996, shall be levied upon the value of real and personal property which has been set at an assessed valuation of \$340,315,401. Taxes levied upon this value shall be:

Approximately \$1.910 per \$1,000 assessed valuation, producing estimated revenue of \$650,000 for general government, or the maximum allowable by law; and

Section 2. The ad valorem tax excess levies required to raise estimated revenues for the City of Gig Harbor for the ensuing year commencing January 1, 1996, shall be levied upon the value of real and personal property which has been set at an assessed valuation of \$340,315,401. Taxes levied upon this value shall be:

Approximately \$0.4114 per \$1000 assessed valuation, producing an estimated amount of \$140,000 for 1987 sewer construction general obligation.

Section 3. This ordinance shall be certified by the city clerk to the clerk of the board of county commissioners/council and taxes hereby levied shall be collected and paid to the Finance Director of the City of Gig Harbor at the time and in a manner provided by

the laws of the state of Washington for the collection of taxes.

Section 4. *This ordinance shall be published in the official newspaper of the city, and shall take effect and be in full force five(5) days after the date of its publication.*

**PASSED** by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this \_\_\_ day of \_\_\_, 1995.

---

Gretchen A. Wilbert, Mayor

ATTEST:

---

Mark Hoppen  
City Administrator/Clerk

Filed with city clerk: 10/1295

Passed by the city council:

Date published:

Date effective:





*City of Gig Harbor. The "Maritime City."*  
3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: TOM ENLOW**  
**DATE: October 16, 1995**  
**SUBJECT: PURCHASE OF UTILITY MANAGEMENT ACCOUNTING SYSTEM**

### **INTRODUCTION**

We budgeted to upgrade our utility accounting system in the 1995 budget. Council approved the item with the stipulation that it specifically approve the purchase. It was also suggested that we research other accounting systems before spending any more on EDEN Systems software.

### **BACKGROUND**

We did not conduct requests for information or proposals, but the City of Mercer Island and the City of Bainbridge Island recently have.

Bainbridge is installing a system that cost about \$170,000 including training and other support plus about \$150,000 of proprietary hardware. Annual maintenance fees are \$17,300. EDEN Systems was their second choice (and for a savings of about \$100,000 was the recommendation of their Finance Director). Mercer Island hasn't decided on a system yet, but has narrowed it down to 4 systems, including EDEN systems. The systems, as they configured them, cost between \$95,789 and \$206,985. They eliminated one system for over \$500,000. These systems included some hardware that we wouldn't need but exclude payroll and utilities software. Those modules would add approximately \$25,000 to \$30,000 to the cost. Mercer Island has been looking for a Windows or other graphical interface based system, but has determined that there isn't yet a stable, full-featured, municipal system available for that environment.

Advantages to retaining EDEN System include: 1) EDEN is designed specifically for Washington State municipal accounting (BARS); 2) Their new policy of upgrading their software 3-4 times a year continually provides minor improvements and bug fixes; 3) We already know how to use it; 4) Our annual support costs are based on a percentage of our very low historical cost rather than current cost, as is frequently the basis.

Our current Utility Billing system is adequate for processing billing and receipts. Added features of the Utility Management system will make that processing much more efficient, will interface with handheld meter readers, and will provide for better tracking of new connections, equipment and maintenance. The improved information will also be available to Public Works for processing service orders, account inquiry, and overall system analysis. EDEN's list of features is attached.

### **FISCAL IMPACT**

The cost of upgrading to the Utility Management system is \$13,260 including installation, training and a credit for our current system. Additional annual maintenance will be \$638.

### **RECOMMENDATION**

Staff requests your approval to proceed with the purchase.



## Major Enhancements/Features in Utility Management System

1. Handheld Interface with configurable upload/download formats and edit listing. Pre-billing register in the interface menu can be printed to verify all billing charges before actual billing.
2. Cash Register Interface
3. Batch Cash Receipt Processing
4. Service Order System
5. UM to BARS Interface
6. On-line Lookup and Help Feature
7. Allow up to nine screens of master file information. Each screen is fully configurable. There are over 20 user-definable screens in the system.
8. Allow up to 14 different ways to lookup an account (Account Number, Owner's Name, Tenant's Name, Parcel Number, Meter Numbers, Service Location, Reference Account Number, Route Numbers, three user-defined lookup fields, etc.)
9. Allow up to 20-digit account number (in 4 levels).
10. Allow up to 12 billing categories.
11. Allow up to 25 account types.
12. Allow thousands of rate codes for each billing category. Rate codes can be entered in numbers or alphanumerics.
13. Arrangement date can be used for special account payment arrangements.
14. On-line and off-line address verification capabilities.
15. Allows over 50 pages (500 transactions) of history which can be displayed in chronological order or reverse chronological order.

16. Penalty can be a single category or corresponding to each category.
17. Penalty program is fully user configurable. Each account type can be penalized differently.
18. Cash receipt can be distributed in user-defined priority.
19. Deposit is an audited field. Both history and audit reports will show all deposit-related transactions.
20. There are deposit interest fields which stored the calculated interest amount based on the deposit amount and the interest rate. It can also be applied/refunded automatically along with the deposit amount refund.
21. Billing Discount and Receipt Discount
22. Generic Report Generator is available; therefore some of the major reports can be configured according to the city's needs.
23. Repeat Closing Bills
24. Automatic Payment Plan
25. Automatic Month-end and Year-end Processing
26. Ability to enter adjustment reason codes.
27. Allow billing by account number or by route.
28. Allow automatic pro-ration based on number of service/reading days.
29. Allow automatic consumption estimate for billing if meters cannot be read.
30. Provide next-time billing menu option for additional charges/meter exchange information to be used in the next billing.
31. Route File Maintenance
32. Automatic account number assignment







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3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL**

**FROM: TOM ENLOW, FINANCE DIRECTOR**

**DATE: October 17, 1995**

**SUBJECT: Quarterly Finance Report**

Attached are the quarterly financial reports for the third quarter of 1995.

Total resources, including all revenues and beginning cash balances, are at 86% of the annual budget. Year to date revenues, excluding cash balances, are at 69% of budget.

Overall General Fund revenues (excluding beginning balance) are at 77% of budget. Property taxes are still at only 55% since the second half is due in October. Sales taxes were a concern in previous quarters, but are now about as expected at 76%.

Street revenues are only 53% of budget. While we have received nearly all of the Harborview and North Harborview grant monies (\$1,092,423), we also budgeted \$1,065,000 for the Kimball Drive grant and that project has not begun.

The summer was very good to the Water department. Revenues increased to 86% of budget. Of course, water usage for the rest of the year will reduce dramatically and revenues for the whole year are expected to be close to budget. Sewer revenues are close behind at 83% of budget.

General Fund expenditures, excluding cash balances, are at 66% of budget with all departments within 75%, except Non-departmental which has made all its budgeted transfers for the year. Water and sewer expenditures are well within budget.

Cash balances appear to be adequate in all funds. No further budget amendments are anticipated.

**CITY OF GIG HARBOR  
CASH AND INVESTMENTS  
YEAR TO DATE ACTIVITY  
AS OF SEPTEMBER 30, 1995**

FUND NO.	DESCRIPTION	BEGINNING BALANCE	REVENUES	EXPENDITURES	OTHER CHANGES	ENDING BALANCE
001	GENERAL GOVERNMENT	\$995,352	\$1,727,586	\$1,629,811	(\$29,219)	\$1,063,908
101	STREET FUND	86,729	1,533,662	1,526,117	(47,732)	46,543
105	DRUG INVESTIGATION FUND	7,663	279	2,343	(19)	5,580
107	HOTEL-MOTEL FUND	1,281	824	270	-	1,836
109	PARK ACQUISITION FUND	-	51,485	-	-	51,485
200	'78 GO BONDS - FIRE	14,928	2,004	5,431	-	11,501
201	'75 GO BONDS - SEWER	43,451	772	36,225	-	7,999
203	'87 GO BONDS - SEWER CONSTR	469,728	93,143	41,766	(84)	521,019
208	91 GO BONDS - SOUNDVIEW DRIVE	5,776	96,601	26,576	(106)	75,696
301	GENERAL GOVT CAPITAL ASSETS	364,000	62,726	25,000	-	401,725
305	GENERAL GOVT CAPITAL IMPRVMEN	172,265	54,270	25,000	-	201,535
401	WATER OPERATING	213,478	500,045	282,768	(65,809)	364,946
402	SEWER OPERATING	311,611	589,562	458,811	(19,078)	423,284
407	UTILITY RESERVE	424,761	18,428	-	-	443,189
408	UTILITY BOND REDEMPTION FUND	546,041	109,652	441,823	210,637	424,506
410	SEWER CAPITAL CONSTRUCTION	1,274,951	1,294,590	2,239,423	(65,376)	264,742
411	STORM SEWER OPERATING	12,912	163,355	88,899	(4,107)	83,261
413	ADV REFUNDING BOND REDEMPTION	13,540	61,025	12,807	(79)	61,679
420	WATER CAPITAL ASSETS	83,801	61,691	85,495	(1,460)	58,536
605	LIGHTHOUSE MAINTENANCE TRUST	3,835	169	-	-	4,005
631	MUNICIPAL COURT	(0)	56,920	56,920	-	(0)
801	CLEARING CLAIMS	52,210	-	-	(52,210)	0
		<u>\$5,098,313</u>	<u>\$6,478,790</u>	<u>\$6,985,485</u>	<u>(\$74,642)</u>	<u>\$4,516,975</u>

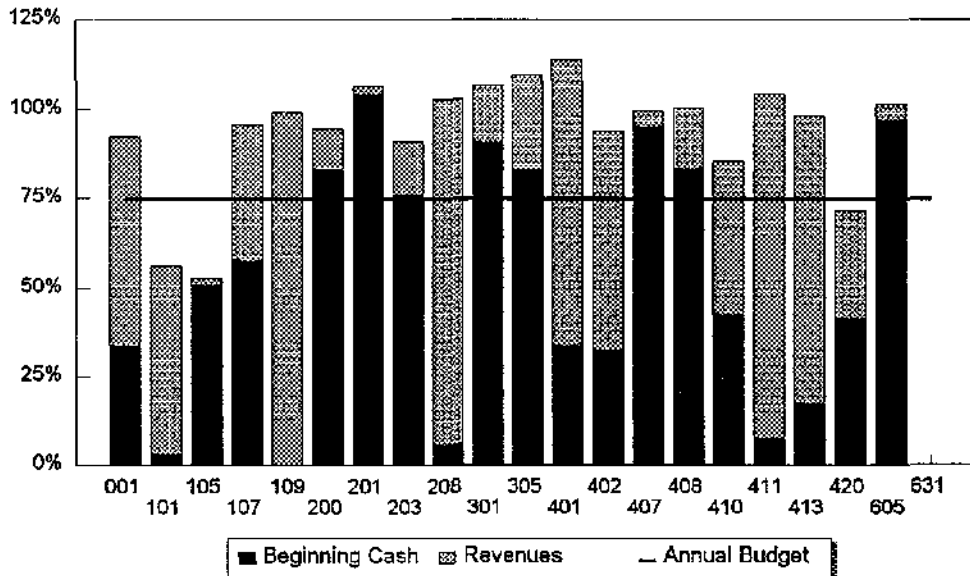
**COMPOSITION OF CASH AND INVESTMENTS  
AS OF SEPTEMBER 30, 1995**

	MATURITY	RATE	BALANCE
CASH ON HAND			\$300
CASH IN BANK		1.85%	131,544
LOCAL GOVERNMENT INVESTMENT POOL		5.77%	3,962,862
FEDERAL FARM CREDIT BANK	07/24/96	6.00%	250,000
US TREASURY ZERO COUPON	11/15/95	4.25%	72,289
US BANK - FHLB BND	02/14/96	4.31%	100,000
			<u>\$4,516,975</u>

**CITY OF GIG HARBOR  
YEAR-TO-DATE RESOURCE SUMMARY  
AND COMPARISON TO BUDGET  
FOR PERIOD ENDING SEPTEMBER 30, 1995**

FUND NO.	DESCRIPTION	ESTIMATED RESOURCES	ACTUAL Y-T-D RESOURCES	BALANCE OF ESTIMATE	PERCENTAGE (ACTUAL/EST.)
001	GENERAL GOVERNMENT	\$2,950,359	\$2,722,938	\$227,421	92.29%
101	STREET FUND	2,879,086	1,620,392	1,258,694	56.28%
105	DRUG INVESTIGATION FUND	15,000	7,942	7,058	52.95%
107	HOTEL-MOTEL FUND	2,200	2,108	94	95.71%
109	PARK ACQUISITION FUND	52,000	51,485	515	99.01%
200	'78 GO BONDS - FIRE	17,900	16,932	968	94.59%
201	'75 GO BONDS - SEWER	41,625	44,224	(2,599)	106.24%
203	'87 GO BONDS - SEWER CONSTR	618,000	562,869	55,131	91.08%
208	91 GO BONDS - SOUNDVIEW DRIVE	99,500	102,377	(2,877)	102.89%
301	GENERAL GOVT CAPITAL ASSETS	400,000	426,725	(26,725)	106.68%
305	GENERAL GOVT CAPITAL IMPROVEMENT	207,000	226,535	(19,535)	109.44%
401	WATER OPERATING	628,645	713,523	(84,878)	113.50%
402	SEWER OPERATING	958,790	901,172	57,618	93.99%
407	UTILITY RESERVE	445,000	443,189	1,811	99.59%
408	UTILITY BOND REDEMPTION FUND	653,000	655,693	(2,693)	100.41%
410	SEWER CAPITAL CONSTRUCTION	3,000,851	2,569,541	431,310	85.63%
411	STORM SEWER OPERATING	169,395	178,287	(6,872)	104.06%
413	ADV REFUNDING BOND REDEMPTION	76,147	74,585	1,582	97.92%
420	WATER CAPITAL ASSETS	203,000	145,492	57,508	71.67%
605	LIGHTHOUSE MAINTENANCE TRUST	3,950	4,005	(55)	101.38%
631	MUNICIPAL COURT	-	56,920	(56,920)	NA
		<b>\$13,421,448</b>	<b>\$11,524,893</b>	<b>\$1,896,555</b>	<b>85.87%</b>

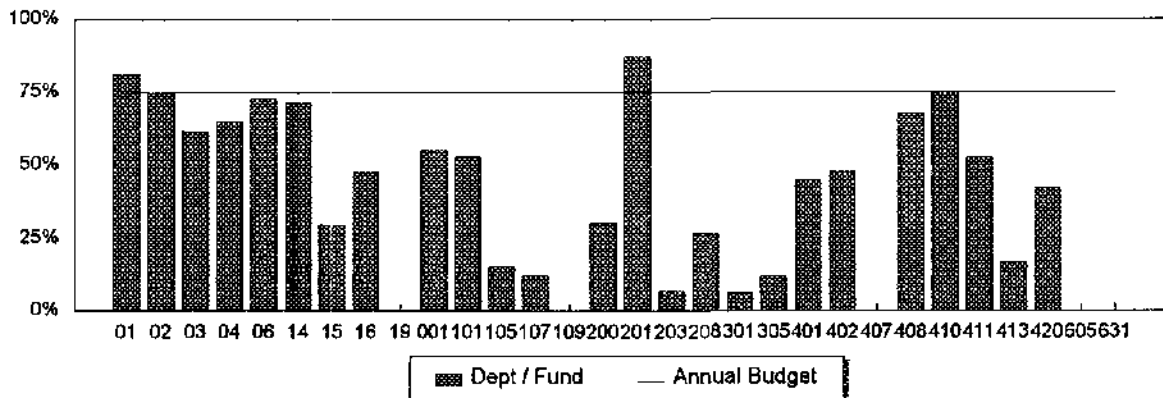
**City of Gig Harbor**  
Resources as a Percentage of Annual Budget



**CITY OF GIG HARBOR  
YEAR-TO-DATE EXPENDITURE SUMMARY  
AND COMPARISON TO BUDGET  
FOR PERIOD ENDING SEPTEMBER 30, 1995**

FUND NO.	DESCRIPTION	ESTIMATED EXPENDITURES	ACTUAL Y-T-D EXPENDITURES	BALANCE OF ESTIMATE	PERCENTAGE (ACTUAL/EST.)
001	GENERAL GOVERNMENT				
01	NON-DEPARTMENTAL	\$509,581	\$414,532	\$95,049	81.35%
02	LEGISLATIVE	16,500	12,324	4,176	74.69%
03	MUNICIPAL COURT	200,366	123,781	76,585	61.78%
04	ADMINISTRATIVE/FINANCIAL	297,360	193,757	103,603	65.16%
06	POLICE	789,655	574,843	215,012	72.77%
14	COMMUNITY DEVELOPMENT	244,320	174,763	69,557	71.53%
15	PARKS AND RECREATION	370,078	110,795	259,283	29.94%
16	BUILDING	52,650	25,216	27,434	47.89%
19	ENDING FUND BALANCE	469,849	-	469,849	-
001	TOTAL GENERAL FUND	2,950,359	1,629,811	1,320,548	55.24%
101	STREET FUND	2,879,086	1,526,117	1,352,969	53.01%
105	DRUG INVESTIGATION FUND	15,000	2,343	12,657	15.62%
107	HOTEL-MOTEL FUND	2,200	270	1,930	12.26%
109	PARK ACQUISITION FUND	52,000	-	52,000	-
200	'78 GO BONDS - FIRE	17,900	5,431	12,469	30.34%
201	'75 GO BONDS - SEWER	41,625	36,225	5,400	87.03%
203	'87 GO BONDS - SEWER CONSTR	618,000	41,766	576,234	6.76%
208	91 GO BONDS - SOUNDVIEW DRIVE	99,500	26,576	72,924	26.71%
301	GENERAL GOVT CAPITAL ASSETS	400,000	25,000	375,000	6.25%
305	GENERAL GOVT CAPITAL IMPROVEME	207,000	25,000	182,000	12.08%
401	WATER OPERATING	628,645	282,768	345,877	44.98%
402	SEWER OPERATING	958,790	458,811	499,980	47.85%
407	UTILITY RESERVE	445,000	-	445,000	-
408	UTILITY BOND REDEMPTION FUND	653,000	441,823	211,177	67.66%
410	SEWER CAPITAL CONSTRUCTION	3,000,851	2,239,423	761,428	74.63%
411	STORM SEWER OPERATING	169,395	88,899	80,496	52.48%
413	ADV REFUNDING BOND REDEMPTION	76,147	12,807	63,340	16.82%
420	WATER CAPITAL ASSETS	203,000	85,495	117,505	42.12%
605	LIGHTHOUSE MAINTENANCE TRUST	3,950	-	3,950	-
631	MUNICIPAL COURT	-	56,920	(56,920)	NA
		<b>\$13,421,448</b>	<b>\$6,985,485</b>	<b>\$6,435,963</b>	<b>52.05%</b>

**City of Gig Harbor**  
Expenditures as a Percentage of Annual Budget



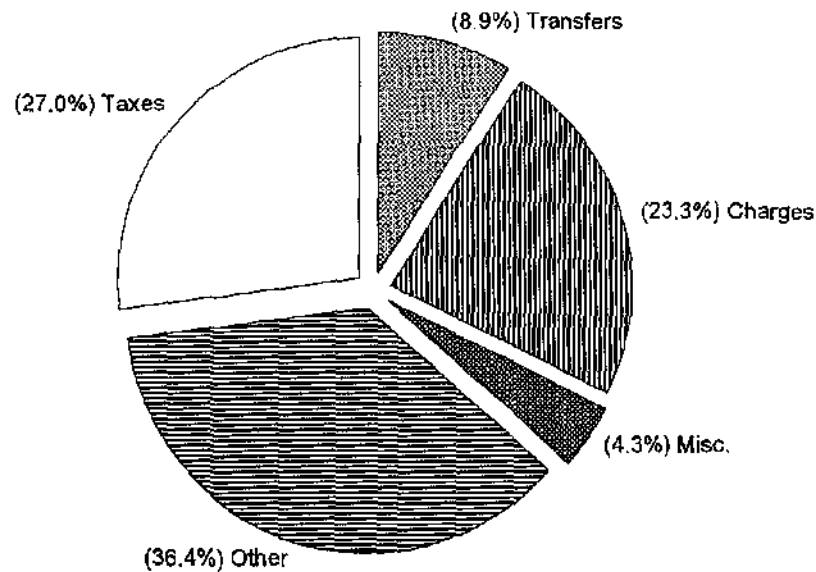
CITY OF GIG HARBOR  
 YEAR-TO-DATE REVENUE SUMMARY  
 BY TYPE  
 FOR PERIOD ENDING SEPTEMBER 30, 1995

<u>TYPE OF REVENUE</u>	<u>AMOUNT</u>
Taxes	\$1,750,584
Licenses and Permits	81,292
Intergovernmental	1,256,821
Charges for Services	1,512,389
Fines and Forfeits	73,592
Miscellaneous	280,354
Non-Revenues	947,771
Transfers and Other Sources of Funds	<u>575,987</u>
 Total Revenues	 6,478,790
Beginning Cash Balance	5,098,313
Total Resources	<u>\$11,577,103</u>

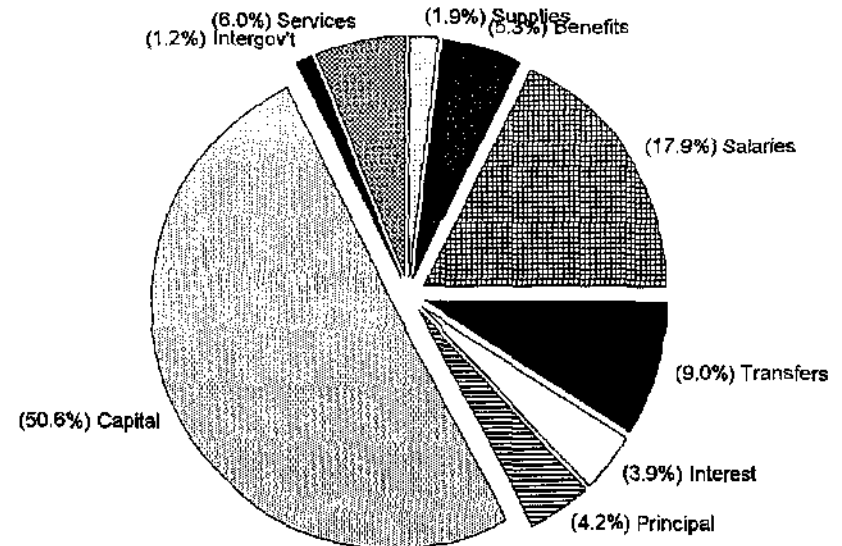
CITY OF GIG HARBOR  
 YEAR-TO-DATE EXPENDITURE SUMMARY  
 BY TYPE  
 FOR PERIOD ENDING SEPTEMBER 30, 1995

<u>TYPE OF EXPENDITURE</u>	<u>AMOUNT</u>
Wages and Salaries	\$1,247,560
Personnel Benefits	371,213
Supplies	135,336
Services and Other Charges	420,670
Intergovernmental Services and Charges	81,796
Capital Expenditures	3,537,445
Principal Portions of Debt Payments	290,000
Interest Expense	274,628
Transfers and Other Uses of Funds	<u>626,837</u>
Total Expenditures	<u>6,985,485</u>
Ending Cash Balance	4,516,975
Total Uses	<u>\$11,502,460</u>

**City of Gig Harbor**  
 Revenues by Type - All Funds



**City of Gig Harbor**  
 Expenditures by Type - All Funds



CITY OF GIG HARBOR  
STATEMENT OF FINANCIAL POSITION  
BY FUND TYPE  
AS OF SEPTEMBER 30, 1995

	GENERAL GOVERNMENT	SPECIAL REVENUE	DEBT SERVICE	TOTAL GOVERNMENT	PROPRIETARY	FIDUCIARY	ACCOUNT GROUPS	TOTAL
<b>ASSETS</b>								
CASH	\$34,469	\$22,898	\$14,263	\$71,630	\$60,214	-	\$0	\$131,844
INVESTMENTS	1,029,438	689,812	601,951	2,321,202	2,063,929	-	-	4,385,131
RECEIVABLES	21,701	12,511	7,574	41,786	2,231,069	-	-	2,272,855
FIXED ASSETS	-	-	-	-	9,684,830	-	4,091,344	13,776,173
OTHER	-	-	-	-	36,984	-	1,988,247	2,025,231
<b>TOTAL ASSETS</b>	<b>\$1,085,609</b>	<b>\$725,221</b>	<b>\$623,789</b>	<b>\$2,434,618</b>	<b>\$14,077,026</b>	<b>-</b>	<b>\$6,079,591</b>	<b>\$22,591,234</b>
<b>LIABILITIES</b>								
CURRENT	1,155	5,370	5,000	11,526	361,642	-	(0)	373,168
LONG TERM	8,262	8,262	5,002	21,526	3,112,286	-	1,988,247	5,122,059
<b>TOTAL LIABILITIES</b>	<b>9,417</b>	<b>13,632</b>	<b>10,002</b>	<b>33,051</b>	<b>3,473,928</b>	<b>-</b>	<b>1,988,247</b>	<b>5,495,227</b>
<b>FUND BALANCE:</b>								
BEGINNING OF YEAR	978,417	588,902	531,264	2,096,582	11,414,776	-	4,091,344	17,602,702
Y-T-D REVENUES	1,727,586	1,703,416	192,520	3,623,523	2,798,347	56,920	-	6,478,790
Y-T-D EXPENDITURES	(1,629,811)	(1,578,729)	(109,998)	(3,318,538)	(3,610,026)	(56,920)	-	(6,985,485)
<b>ENDING FUND BALANCE</b>	<b>1,076,191</b>	<b>711,589</b>	<b>613,787</b>	<b>2,401,567</b>	<b>10,603,097</b>	<b>0</b>	<b>4,091,344</b>	<b>17,096,007</b>
<b>TOTAL LIAB. &amp; FUND BAL.</b>	<b>\$1,085,609</b>	<b>\$725,221</b>	<b>\$623,789</b>	<b>\$2,434,618</b>	<b>\$14,077,026</b>	<b>\$0</b>	<b>\$6,079,591</b>	<b>\$22,591,234</b>

CITY OF GIG HARBOR  
STATEMENT OF FINANCIAL POSITION  
AS OF SEPTEMBER 30, 1995

	SPECIAL REVENUE FUNDS								TOTAL SPECIAL REVENUE
	001 GENERAL GOVERNMENT	101 STREET	105 DRUG INVESTIGATION	107 HOTEL - MOTEL	109 PARK ACQUISITION	301 GENERAL GOVT CAPITAL ASSETS	305 GENERAL GOVT CAPITAL IMP	605 LIGHTHOUSE MAINTENANCE	
CASH	\$34,469	\$1,495	\$179	\$59	\$1,654	\$12,906	\$6,475	\$129	\$22,898
INVESTMENTS	1,029,438	45,048	5,401	1,777	49,831	388,819	195,061	3,876	689,812
RECEIVABLES	21,701	12,511	-	-	-	-	-	-	12,511
FIXED ASSETS	-	-	-	-	-	-	-	-	-
OTHER	-	-	-	-	-	-	-	-	-
<b>TOTAL ASSETS</b>	<b>\$1,085,609</b>	<b>\$59,054</b>	<b>\$5,580</b>	<b>\$1,836</b>	<b>\$51,485</b>	<b>\$401,725</b>	<b>\$201,535</b>	<b>\$4,005</b>	<b>\$725,221</b>
<b>LIABILITIES</b>									
CURRENT	\$1,155	\$5,370	-	-	-	-	-	-	\$5,370
LONG TERM	8,262	8,262	-	-	-	-	-	-	8,262
<b>TOTAL LIABILITIES</b>	<b>9,417</b>	<b>13,632</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>13,632</b>
<b>FUND BALANCE:</b>									
BEGINNING OF YEAR	978,417	37,876	7,643	1,281	-	364,000	172,265	3,835	586,902
Y-T-D REVENUES	1,727,586	1,533,662	279	824	51,485	62,726	54,270	169	1,703,416
Y-T-D EXPENDITURES	(1,629,811)	(1,526,117)	(2,343)	(270)	-	(25,000)	(25,000)	-	(1,578,729)
<b>ENDING FUND BALANCE</b>	<b>1,076,191</b>	<b>45,422</b>	<b>5,580</b>	<b>1,836</b>	<b>51,485</b>	<b>401,725</b>	<b>201,535</b>	<b>4,005</b>	<b>711,589</b>
<b>TOTAL LIAB. &amp; FUND BAL.</b>	<b>\$1,085,609</b>	<b>\$59,054</b>	<b>\$5,580</b>	<b>\$1,836</b>	<b>\$51,485</b>	<b>\$401,725</b>	<b>\$201,535</b>	<b>\$4,005</b>	<b>\$725,221</b>

CITY OF GIG HARBOR  
STATEMENT OF FINANCIAL POSITION  
AS OF SEPTEMBER 30, 1995

	DEBT SERVICE				TOTAL DEBT SERVICE
	200 78 GO BOND FIRE	201 75 GO BONDS SEWER	203 87 GO BONDS SEWER CONST	208 91 GO BONDS SOUNDVIEW DR	
CASH	\$369	\$257	\$11,205	\$2,432	\$14,263
INVESTMENTS	11,131	7,742	509,814	73,264	601,951
RECEIVABLES	316	-	7,258	-	7,574
FIXED ASSETS	-	-	-	-	-
OTHER	-	-	-	-	-
<b>TOTAL ASSETS</b>	<b>\$11,817</b>	<b>\$7,999</b>	<b>\$528,277</b>	<b>\$75,696</b>	<b>\$623,789</b>
<b>LIABILITIES</b>					
CURRENT	-	\$5,000	-	(\$0)	\$5,000
LONG TERM	209	-	4,793	-	5,002
<b>TOTAL LIABILITIES</b>	<b>209</b>	<b>5,000</b>	<b>4,793</b>	<b>(0)</b>	<b>10,002</b>
<b>FUND BALANCE:</b>					
BEGINNING OF YEAR	15,036	38,451	472,106	5,671	531,264
Y-T-D REVENUES	2,004	772	93,143	96,601	192,520
Y-T-D EXPENDITURES	(5,431)	(36,225)	(41,766)	(26,576)	(109,998)
<b>ENDING FUND BALANCE</b>	<b>11,608</b>	<b>2,999</b>	<b>523,484</b>	<b>75,696</b>	<b>613,787</b>
<b>TOTAL LIAB. &amp; FUND BAL.</b>	<b>\$11,817</b>	<b>\$7,999</b>	<b>\$528,277</b>	<b>\$75,696</b>	<b>\$623,789</b>



CITY OF GIG HARBOR  
STATEMENT OF FINANCIAL POSITION  
AS OF SEPTEMBER 30, 1995

	PROPRIETARY								TOTAL PROPRIETARY
	401 WATER OPERATING	402 SEWER OPERATING	407 UTILITY RESERVE	408 89 UTILITY BOND REDEMPTION	410 SEWER CAP. CONST.	411 STORM SEWER OPERATING	413 ADV REFUNDING BOND REDEMPT	420 WATER CAP. ASSETS	
CASH	\$11,275	\$13,454	\$6,207	\$13,638	\$8,506	\$3,272	\$1,982	\$1,881	\$60,214
INVESTMENTS	353,671	409,830	436,982	410,868	256,236	79,990	59,697	56,656	2,063,929
RECEIVABLES	118,304	104,579	1,333	1,863,363	124,925	18,565	-	-	2,231,069
FIXED ASSETS	1,870,210	6,706,361	-	-	472,503	635,755	-	-	9,684,830
OTHER	-	-	-	36,984	-	-	-	-	36,984
<b>TOTAL ASSETS</b>	<b>\$2,353,460</b>	<b>\$7,234,224</b>	<b>\$444,522</b>	<b>\$2,324,853</b>	<b>\$862,169</b>	<b>\$737,581</b>	<b>\$61,679</b>	<b>\$58,536</b>	<b>\$14,077,026</b>
<b>LIABILITIES</b>									
CURRENT	\$2,500	-	-	\$322,046	-	-	\$37,096	-	\$361,642
LONG TERM	13,495	60,856	-	2,802,070	-	7,345	228,520	-	3,112,286
<b>TOTAL LIABILITIES</b>	<b>15,995</b>	<b>60,856</b>	<b>-</b>	<b>3,124,116</b>	<b>-</b>	<b>7,345</b>	<b>265,616</b>	<b>-</b>	<b>3,473,928</b>
<b>FUND BALANCE:</b>									
BEGINNING OF YEAR	2,120,188	7,042,618	426,094	(467,091)	1,807,002	655,779	(252,155)	82,341	11,414,776
Y-T-D REVENUES	500,045	589,562	18,428	109,652	1,294,590	163,355	61,025	61,691	2,798,347
Y-T-D EXPENDITURES	(282,768)	(458,811)	-	(441,823)	(2,239,423)	(88,899)	(12,807)	(85,495)	(3,610,026)
<b>ENDING FUND BALANCE</b>	<b>2,337,465</b>	<b>7,173,369</b>	<b>444,522</b>	<b>(799,263)</b>	<b>862,169</b>	<b>730,236</b>	<b>(203,937)</b>	<b>58,536</b>	<b>10,603,097</b>
<b>TOTAL LIAB. &amp; FUND BAL.</b>	<b>\$2,353,460</b>	<b>\$7,234,224</b>	<b>\$444,522</b>	<b>\$2,324,853</b>	<b>\$862,169</b>	<b>\$737,581</b>	<b>\$61,679</b>	<b>\$58,536</b>	<b>\$14,077,026</b>

CITY OF GIG HARBOR  
STATEMENT OF FINANCIAL POSITION  
AS OF SEPTEMBER 30, 1995

	FIDUCIARY		ACCOUNT GROUPS		TOTAL ACCOUNT GROUPS
	631 MUNICIPAL COURT	801 CLEARING CLAIMS	820 GENERAL FIXED ASSET GROUP	900 GENERAL L-T DEBT GROUP	
CASH	-	\$0	-	-	\$0
INVESTMENTS	-	-	-	-	-
RECEIVABLES	-	-	-	-	-
FIXED ASSETS	-	-	4,091,344	-	4,091,344
OTHER	-	-	-	1,988,247	1,988,247
<b>TOTAL ASSETS</b>	<b>-</b>	<b>\$0</b>	<b>\$4,091,344</b>	<b>\$1,988,247</b>	<b>\$6,079,591</b>
LIABILITIES					
CURRENT	-	(\$0)	-	-	(\$0)
LONG TERM	-	-	-	1,988,247	1,988,247
<b>TOTAL LIABILITIES</b>	<b>-</b>	<b>(0)</b>	<b>-</b>	<b>1,988,247</b>	<b>1,988,247</b>
FUND BALANCE:					
BEGINNING OF YEAR	-	-	4,091,344	-	4,091,344
Y-T-D REVENUES	56,920	-	-	-	-
Y-T-D EXPENDITURES	(56,920)	-	-	-	-
<b>ENDING FUND BALANCE</b>	<b>0</b>	<b>-</b>	<b>4,091,344</b>	<b>-</b>	<b>4,091,344</b>
<b>TOTAL LIAB. &amp; FUND BAL.</b>	<b>\$0</b>	<b>(\$0)</b>	<b>\$4,091,344</b>	<b>\$1,988,247</b>	<b>\$6,079,591</b>



DENNIS RICHARDS  
Chief of Police

City of Gig Harbor Police Dept.  
3105 JUDSON STREET • P.O. BOX 145  
GIG HARBOR, WASHINGTON 98335  
(206) 851-2236

GIG HARBOR POLICE DEPARTMENT

MONTHLY ACTIVITY REPORT

SEPTEMBER 1995

	SEPT 1995	YTD 1995	YTD 1994	%chg to 1994
CALLS FOR SERVICE	<u>182</u>	<u>2547</u>	<u>2511</u>	<u>+ 1</u>
CRIMINAL TRAFFIC	<u>26</u>	<u>165</u>	<u>176</u>	<u>- 6</u>
TRAFFIC INFRACTIONS	<u>80</u>	<u>671</u>	<u>680</u>	<u>- 1</u>
DUI ARRESTS	<u>3</u>	<u>33</u>	<u>58</u>	<u>- 43</u>
FELONY ARRESTS	<u>9</u>	<u>55</u>	<u>56</u>	<u>- 1</u>
MISDEMEANOR ARRESTS	<u>9</u>	<u>123</u>	<u>173</u>	<u>- 28</u>
WARRANT ARRESTS	<u>5</u>	<u>55</u>	<u>56</u>	<u>- 1</u>
CASE REPORTS	<u>45</u>	<u>607</u>	<u>620</u>	<u>+ 2</u>



2. Flanking street, 10 feet;

D. Any yard abutting residential development, 30 feet with dense vegetative screening.

17.36.070 Maximum impervious coverage.

In a B-2 district, the maximum impervious coverage is 70 percent.

17.36.080 Maximum height of structures.

In a B-2 district, the maximum height is 16 feet, except as provided for under Chapter 17.62 GHMC, height overlay district.

17.36.090 Parking.

In a B-2 district, parking on private property shall be provided in connection with any permitted or conditional use as specified in Chapter 17.72 GHMC.

17.36.100 Signs.

In a B-2 district, signs may be allowed in conjunction with any permitted use and are subject to the provisions of Chapter 17.80 GHMC.

17.36.110 Loading facilities.

In a B-2 district, off-street loading facilities shall be provided in accordance with the provisions of Chapter 17.72 GHMC.

17.36.120 Performance standards.

In a B-2 district, performance standards are as follows:

A. Exterior Mechanical Devices. Air conditioners, heating, cooling and ventilating equipment, pumps and heaters and all other mechanical devices shall be screened.

B. Landscaping. Landscaping is required and shall be installed in conformance with Chapter 17.78 GHMC and/or by conditions of approval of discretionary applications required by this title; such landscaping shall be maintained in a neat manner. In no event shall such landscaped areas be used for storage of materials or parking of vehicles.

C. Outdoor Storage of Materials. The outdoor storage of materials, including but not limited to lumber, auto parts, household appliances, pipe, drums, machinery or furniture, is permitted as an incidental or accessory activity of a permitted use or the principal feature of a conditional use. Such storage shall be screened by a wall, fence, landscaping or structure from surrounding properties and streets.

17.36.020 Permitted uses.

The following uses and structures are permitted in a B-2 district:

- A. Retail and wholesale sales, excluding motorized vehicles, trailers and boats;
- B. Business and professional offices;
- C. Banks and other financial institutions;
- D. Restaurants, cocktail and associated lounges and taverns (indoor dining - no drive-through);
- E. Commercial recreation, excluding drive-in theaters;
- F. Gasoline service stations and car washes; and
- G. Personal and professional services.

17.36.030 Conditional uses.

Subject to the requirements of Chapter 17.64 GHMC and the standards and procedures for conditional uses as set forth in this title, the following uses may be permitted in a B-2 district:

- A. Utilities and public service uses such as libraries, electrical substations, water storage facilities, etc.;
- B. Light manufacturing and assembly;
- C. Miniwarehouses;
- D. Recreational buildings and community centers;
- E. Drive-in restaurants; and
- F. Radio and television transmission towers.

17.36.040 Other uses.

Other uses similar to either permitted or conditional uses which are consistent with the intent of the B-2 district may be allowed. The determination of consistency and classification of use whether permitted or conditional shall be made by the planning director.

17.36.050 Site plans.

Before a building permit will be issued, the site plan review process as specified in Chapter 17.96 GHMC shall be followed.

17.36.060 Minimum building setback requirements.

- A. Front yard, 20 feet;
- B. Rear yard, 20 feet;
- C. Side Yard.
  - 1. Interior yards, 5 feet,



D. Outdoor Lighting. Within 100 feet of any residential zone or use, outdoor lighting and aerial mounted floodlighting shall be shielded from above in such a manner that the bottom edge of the shield shall be below the light source. Such lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise. Temporary outdoor lighting intended to advertise a temporary promotional event shall be exempt from this requirement.

E. Trash Receptacles. Trash receptacles shall be screened from view. Screening shall be complementary to building design and materials.





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

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**STAFF REPORT  
CITY OF GIG HARBOR PLANNING COMMISSION  
ANX 91-04 - GIG HARBOR NORTH  
PREANNEXATION ZONING PLAN  
November 3, 1995**

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**PART 1: GENERAL INFORMATION**

**A. APPLICANT:**

Principal petitioners for annexation include:

Pope Resources, P.O. Box 1780, Poulsbo, WA 98370

Pacific West Financial Group (Logan International Corp), P.O. Box 860,  
Renton, WA 98057

Tucci and Sons, 4224 Waller Road East, Tacoma, WA 98443

**B. OWNER:**

There are approximately 150 - 160 property owners within the annexation area. The owners of the largest tracts of land include the principal petitioners listed above. The annexation petition submitted bears the signatures of the owners 63.4% of the assessed evaluation within the defined annexation area.

**C. AGENTS:**

N/A

**D. PROJECT HISTORY/REQUEST SUMMARY:**

A notice of intent to annex was filed by the petitioners in April of 1991. The petition for annexation was filed with the city in November of 1992 and was certified by the City Clerk in May of 1993. Several worksessions have been conducted with the City Planning Commission on a preannexation zoning plan for approximately 795 acres, of which 465 acres is under the ownership of the principle landowners within the area. The Planning Commission considered the draft regulations submitted by the petitioners and, after several worksessions with a Planning Commission subcommittee, developed the proposed regulations and zoning district map. That area owned by Pope Resources, Pacific West Financial Group (Logan International Corp) and Tucci and

Sons consists of the Planned Community District with five new zoning districts proposed. The balance of the annexation area is designated as a mixed use overlay (along Burnham Drive) and single family residential. Please refer to appendix to this report and the proposed zoning map for the area.

#### E. GENERAL AREA DESCRIPTION

1. Location: The annexation area is located north of the city limits, bounded on the east by Peacock Hill Avenue, on the west by Burnham Drive NW and SR 16 (north of Swede Hill interchange) and on the north by Canterwood subdivision and Woodridge subdivision.

2. Physical Characteristics: The site consists of undulating topography ranging from gentle slopes to moderately steep areas. Elevations range from 100 feet at the southern boundary of the annexation area to near 300 feet at the northern boundary of the annexation area. There are several wetlands identified throughout the area and these are shown as critical areas in the City of Gig Harbor Comprehensive Plan.

#### F. SURROUNDING LAND USE AND ZONING/COMPREHENSIVE PLAN DESIGNATIONS.

North: Residential, single family (Canterwood). Identified in the Pierce County Plan (1994) as Master Planned Community Overlay.

East: Residential, single family, identified in the Pierce County Plan as medium single family (MSF).

South: City of Gig Harbor

West: Varies from single family to mineral extraction and some limited non-residential uses; identified in Pierce County Plan as medium single family with mineral resource overlays and activity centers.

*Detail information on surrounding land use and comprehensive plan designations can be found in the draft and final EIS's for the Gig Harbor North Annexation (Oct 1992 and Feb 1993, respectively) and the Pierce County Comprehensive Plan (Nov. 1994).*

#### G. UTILITIES/PUBLIC SERVICES INFORMATION

##### 1. Sewer/Water:

The area is currently served by on-site septic systems and private water systems (Harbor Water). City sewer is provided to several business properties along Burnham Drive and along Peacock Hill (Avalon Woods Subdivision). Ultimately, the entire

annexation area will be served by City of Gig Harbor sewer and a large portion will be served by City water. Additional information is available in the City of Gig Harbor Comprehensive Sewer Plan (December 1993) and Comprehensive Water Plan Update (March 1994).

2. Fire Protection:

Fire protection is currently provided by Pierce County Fire Protection District No. 5. Upon annexation, PCFD 5 will continue to provide fire protection.

3. Schools:

The area is served by Peninsula School District. The area will continue to be served by Peninsula School district upon annexation.

4. Parks

There is currently not any established park in the annexation area. A ball-field is under construction off of Burnham Drive (at the former site of the Peninsula Light Storage yard) and will eventually be owned and operated by the City of Gig Harbor. The annexation agreement contains several provisions related to parks and trails.

## **PART II ANALYSIS**

### **A. APPLICABLE LAND USE POLICIES**

1. Pierce County Comprehensive Plan

The Pierce County Comprehensive Plan was substantially updated in November 1994. The annexation area is designated as Employment Based Planned Community Overlay, Medium Single Family and Activity Center. All of the Gig Harbor North principles' properties and two other ownerships are included in the Planned Community Overlay. A summary of these categories, which is based upon the Pierce County Comprehensive Plan, is as follows:

- a. Employment Based Planned Community Overlay - provides a mix of jobs, services, recreation and housing and which must meet the definition planned community per RCW 36.70A.350(1). Residential development is not the exclusive use of the EBPC designation.
- b. Activity Center - designed to meet the shopping, service, office and multifamily housing needs of those drawn by the recreational, cultural and educational attractions found in the Activity Center.
- c. Medium Single Family - permits residential development up to dwelling unite per acre.

A copy of the Pierce County Comprehensive Plan land use map for the area is

included in the appendix to this report.

## 2. City of Gig Harbor Comprehensive Plan (1994)

The City of Gig Harbor Comprehensive Plan was updated in 1994 as part of meeting the city's obligation under the Growth Management Act. Several land use designations are established for this area and these are summarized as follows:

- a. Planned Community District (PCD)- provides a range of land uses including employment based, retail, services, residential, parks and public facilities. Approximately 465 acres of this area is PCD. The PCD designation coincides with the Pierce County Comprehensive Plan's "Employment Based Community Overlay."
- b. Mixed Use Overlay - principally along the Burnham Drive corridor, allows a mixture of uses based upon a minimum parcel development size and percent limitation of uses. Coincides with the Pierce County designations of Activity Center and medium single family (MSF).
- c. Low Density Residential - limited to single family residential at a maximum density of 4 dwelling units per acre. Coincides with the Pierce County designation of medium single family.

A copy of the City of Gig Harbor Comprehensive plan land-use plan map is included in the appendix to this report.

## 3. City of Gig Harbor Zoning Code

The proponents of the Gig Harbor North properties have submitted a proposed land use plan map and proposed district regulations. The proposed land use plan is based upon the preferred alternative which was described in the 1992 DEIS and 1993 FEIS. Additionally, the City of Gig Harbor Comprehensive Plan of November 1994 established a land use designation of Planned Community and Mixed-Use Overlay, along with pertinent goals and objectives, to guide the development of the annexation area over the next 20 years. The proposed land use designations for the area are as follows:

### a. Planned Community District

- 1) Residential low density (RLD)- a low density residential district of up to 4 dwelling units per acre.
- 2) Residential medium density (RMD)- a moderate density residential district with a base density of 8 dwelling units per acre.

3) Neighborhood Business(NB) - a district limited in area to no more than three acres and which provides retail sales and service to nearby neighborhoods.

4) Commercial (C) - a high intensity commercial core which provides a wide range of retail sales and services.

5) Business Park (BP) - a district devoted principally to employment based land uses and very limited retail.

6) Density Credit Transfer Option - permits land owners with the PCD residential districts to transfer available densities from one district to another. This would permit densities of up to 7 dwelling units per acre in RLD and up to 16 units per acre in RMD. The donation parcel effectively loses density while the receiving parcel can gain density.

- b. Mixed Use Overlay - a zoning district which is an overlay to the more traditional underlying zoning. Principally located along the Burnham Drive corridor, it permits several land use development options for development parcels 10 acres or greater in area. It permits a mixture of business and commercial uses with residential uses on the same parcel or within the same development. Maximum residential density is 4 dwelling units per acre.
- c. Residential-Business (RB-2) - Medium intensity district which allows a limited mixture of business, light manufacturing and professional offices with residential. Maximum residential density is 8 dwelling units per acre (up to 12 dwelling units per acre conditionally).
- d. General Business District (B-2) - General retail and wholesale sales and service. Does not permit residential.
- e. Single Family Residential (R-1) - A single family residential district. Maximum density is 3 dwelling units per acre.

The text which describes the zoning districts in detail is contained within the appendix of this report.

#### 4. Comparison of City of Gig Harbor Regulations with Pierce County

## Development Regulations for the Annexation Area.

As of the date of this report, Pierce County is in the final stages of developing an updated zoning plan for the area. Because both plans (the City comprehensive plan and the County comprehensive plan) are both adopted under the statutory requirements of the Growth Management Act, the development regulations proposed for the area must be consistent with the comprehensive plans. The City and Pierce County have been coordinating with each other to assure consistency between each's respective comprehensive plan and to minimize any inconsistencies in development regulations. Coordination for consistency is a requirement of the Pierce County-Wide Planning Policies and the interlocal agreement between the City and Pierce County. Essentially, the PCD districts proposed are comparable to Pierce County's Employment Based Planned Community overlay. Those areas identified as PCD-RLD and R-1 are comparable to the Pierce County MSF designation. The mixed use overlay, in conjunction with the proposed underlying zoning designations, corresponds to the Activity Center designation near the Swede Hill interchange. Activity Centers located north of the interchange (and within the Gig Harbor North properties) are comparable to the PCD commercial and Business Park designations.

### **B. STAFF ANALYSIS OF THE PROPOSED ZONING PLAN**

#### **Planned Community District**

The proposed zoning district regulations for that area designated as PCD in the comprehensive plan are intended to provide a wide range of land uses which essentially comprise a "community". The proposed location of the various PCD zoning districts (commercial, business, residential) takes into consideration proposed transportation, sewer and water facilities and a preliminary trails plan for the annexation area.

The new PCD zoning districts offer a range of land uses and intensities that are found in comparable districts within the current city limits. The new PCD districts offer significant differences over current city zoning codes:

- Increased height for all types of structures to encourage more efficient use of urban lands.
- Reduced setbacks and elimination of minimum lot sizes for new residential subdivision development to encourage subdivision design flexibility.
- Limiting commercial uses to the NB and Commercial zones only and reserving the Business Professional Office District to employment generators.

#### **Mixed Use Overlay**

The Burnham Drive corridor currently has a mix of uses ranging from single family to

business office, commercial and light manufacturing. The mixed use overlay along the Burnham Drive corridor is intended to encourage and promote a variety of uses in a manner that does not impact nor negatively affect other nearby or adjacent uses. Mixed uses (i.e. commercial with residential) within the same development are permitted if certain criteria are met. In accordance with the City Comprehensive Plan, the allocation of uses within a mixed use development may consist of:

- A minimum 25% multifamily residential (base density of up to 4 dwelling units per acre)
- A maximum 30% professional office
- A maximum 45% for commercial/employment

If a landowner prefers not to use the mixed use option, the land-use defaults to the underlying zoning district. These zoning designations are described in detail in the appendix to this report.

A generalized matrix which describes the PCD and Mixed Use Overlay uses is included within the appendix (d) to this report

#### **STANDARD ZONING DESIGNATIONS**

The balance of the annexation area is proposed to be designated as R-1, which is basically a low density single family residential district. Exceptions are found along Burnham Drive where there are several non-residential uses and in an area along Canterwood Boulevard, north of the Swede Hill interchange.

The proposed zoning district map for the annexation area is included in the appendix (e) to this report.

#### **ANNEXATION AGREEMENT**

The City has been negotiating with the Gig Harbor North principals in developing an annexation agreement to address needed public facility improvements for the annexation area. Specifically, the agreement addresses water transmission mains and storage tanks, road construction improvements, parks and trails, conveyance of infrastructure, utility connection charges and general administrative provisions. The agreement specifies responsibilities for both parties respective to future funding commitments and project implementation. The agreement is supplemental to the proposed zoning for the area and will be considered by the City Council at its public hearing on the proposed annexation. The agreement would become effective upon the adoption of the zoning for the area. A copy of the draft agreement is included in the appendix (f) of this report. Should the Planning Commission have any suggestions to the Council regarding the content or performance of the agreement, it should provide its recommendation along with the zoning code and map.

#### **AUTHORITY UNDER RCW 35A.63.330 TO ZONE**

Pursuant to Chapter 35A.63.330 RCW, the legislative body of any code city acting through a

planning agency created pursuant to 35A.63 RCW, or pursuant to its granted powers, may prepare a proposed zoning regulation to become effective upon the annexation of any area which might be reasonably expected to be annexed by the code city at any future time.

#### **APPLICATION OF OTHER CITY CODES**

Upon annexation, the area is subject to all other city codes related to land use and building. These include Title 15 of the GHMC (building, fire, mechanical and plumbing), Title 16 (subdivisions), Title 17 (zoning, as applicable), Title 18 (environmental review, wetlands management, critical areas) and Title 19 (administrative procedures).

#### **OTHER CONSIDERATIONS**

In its review of the draft regulations, staff has noted several areas which should be amended for clarification and consistency with the comprehensive plan. These are as follows:

1. Within the Mixed Use Development Overlay (MUDO), hotels and motels are permitted. However, restaurants and conference centers, which are usual components of hotels, are not addressed. Staff recommends that these be included as allowable uses.
2. The MUDO general regulations should also state under regulation 6, Mixed Use Occupancies, the use allocations (multifamily, commercial, professional office) as stated on page 10 of the Comprehensive Plan.
3. The MUDO requirement for precommitment statements (regulation 5) should be clarified to state that the owner of property desiring to develop a mixed use development on ten or greater acres shall file a precommitment statement. As it currently reads, it requires any land owner within the Mixed Use zone to file a statement.
4. The MUDO requires that churches located on parcels greater than ten acres shall only be authorized as a conditional use. Nothing is stated about churches on parcels less than 10 acres and it seems to suggest that ten acres is the minimum building site. Staff believes the intent was to permit (outright) churches on parcels less than ten acres. If the Planning Commission agrees, this should be include in the permitted uses section.
5. Throughout the district regulations, the term *Child Care* and *Family Day Care* are interchangeably used. The term should be consistent and staff recommends using *Family Day Care*.

#### **C. FINDINGS AND CONCLUSIONS**

Based upon the analysis in this report, the following findings are recommended for the



Planning Commission's consideration:


1. The petition for annexation was filed with the city in November of 1992 and was certified by the City Clerk in May of 1993.
2. Several worksessions have been conducted with the City Planning Commission on a preannexation zoning plan for approximately 795 acres, of which 465 acres is under the ownership of the principle landowners within the area.
3. The Planning Commission considered the draft regulations submitted by the petitioners and, after several worksessions with a Planning Commission subcommittee, developed the proposed regulations and zoning district map.
4. The proposed zoning district regulations for that area designated as PCD in the comprehensive plan are intended to provide a wide range of land uses which essentially comprise a "community".
5. The proposed location of the various PCD zoning districts (commercial, business, residential) takes into consideration proposed transportation, sewer and water facilities and a preliminary trails plan for the annexation area.
6. The mixed use overlay along the Burnham Drive corridor is intended to encourage and promote a variety of uses in a manner that does not impact nor negatively affect other nearby or adjacent uses.
7. The Pierce County Comprehensive Plan was substantially updated in November 1994. The annexation area is designated as Employment Based Planned Community Overlay, Medium Single Family and Activity Center. All of the Gig Harbor North principles' properties and two other ownerships are included in the Planned Community Overlay.
8. The proposed land use plan is based upon the preferred alternative which was described in the 1992 DEIS and 1993 FEIS for the Gig Harbor North Annexation.
9. The City of Gig Harbor Comprehensive Plan of November 1994 established a land use map designation of Planned Community, Mixed-Use Overlay and Residential, along with pertinent goals and objectives, to guide the development of the annexation area over the next 20 years.
10. The City has been negotiating with the Gig Harbor North principals in developing an annexation agreement to address needed public facility improvements for the annexation area. This agreement is subject to approval by the City Council.
11. Under the authority of Chapter 35A.63.330 RCW, the City of Gig Harbor may

prepare a proposed zoning regulation to become effective upon the annexation of any area.

12. The proposed zoning districts and zoning district map are consistent with the City of Gig Harbor Comprehensive Land Use Plan.

**D. RECOMMENDATION**

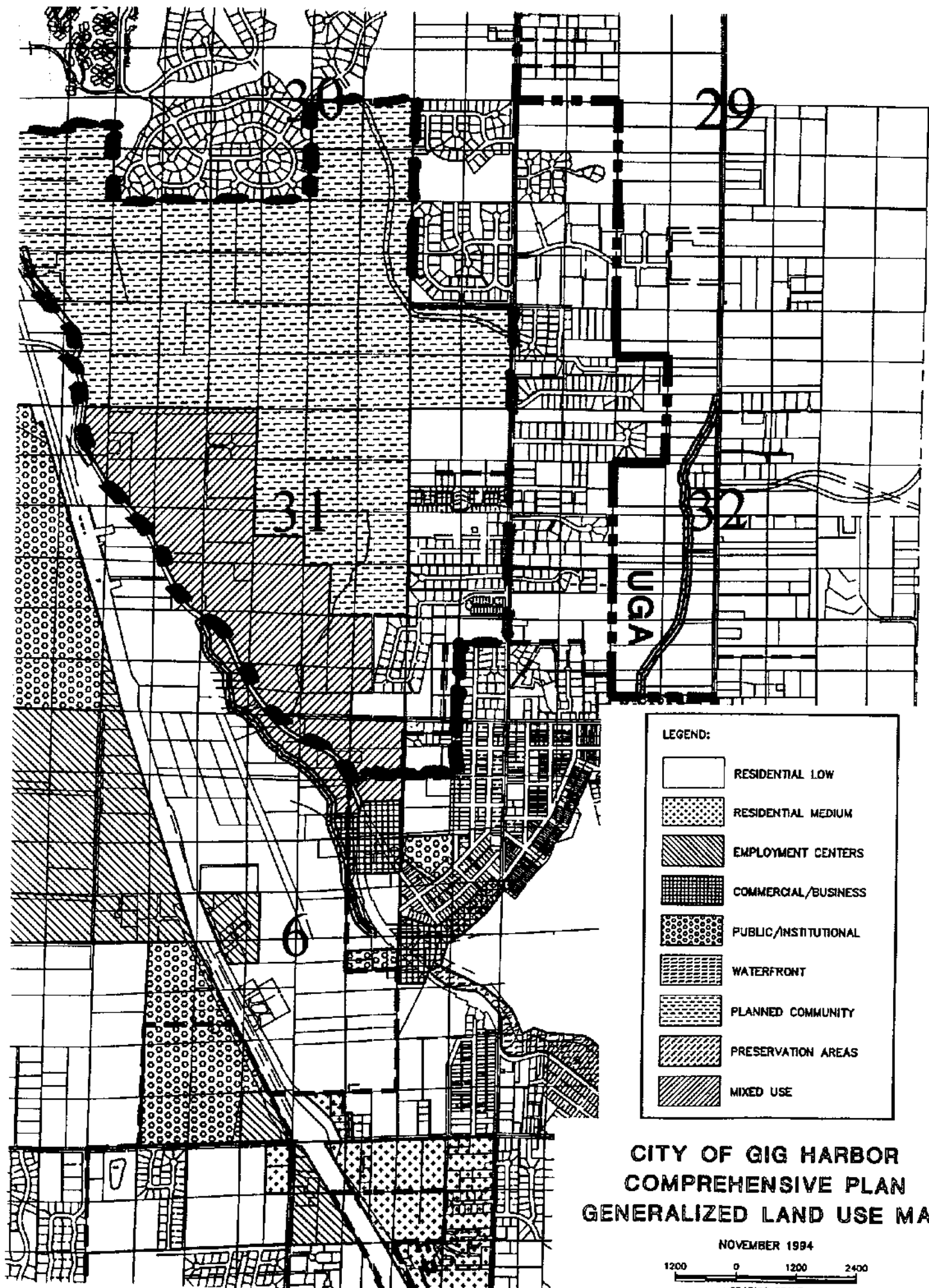
Based upon the preceding analysis, staff recommends that the Planning Commission approve the district regulations and land use map, including the adjustments as proposed by staff.

Report prepared by:  Gilmore, Director, Dept. of Community Development

Date: NOV 3, 1995

appendix a

City of Gig Harbor Comprehensive Plan  
Land Use Map for the Gig Harbor North  
Annexation Area












29

31

32

UGA

**LEGEND:**

-  RESIDENTIAL LOW
-  RESIDENTIAL MEDIUM
-  EMPLOYMENT CENTERS
-  COMMERCIAL/BUSINESS
-  PUBLIC/INSTITUTIONAL
-  WATERFRONT
-  PLANNED COMMUNITY
-  PRESERVATION AREAS
-  MIXED USE

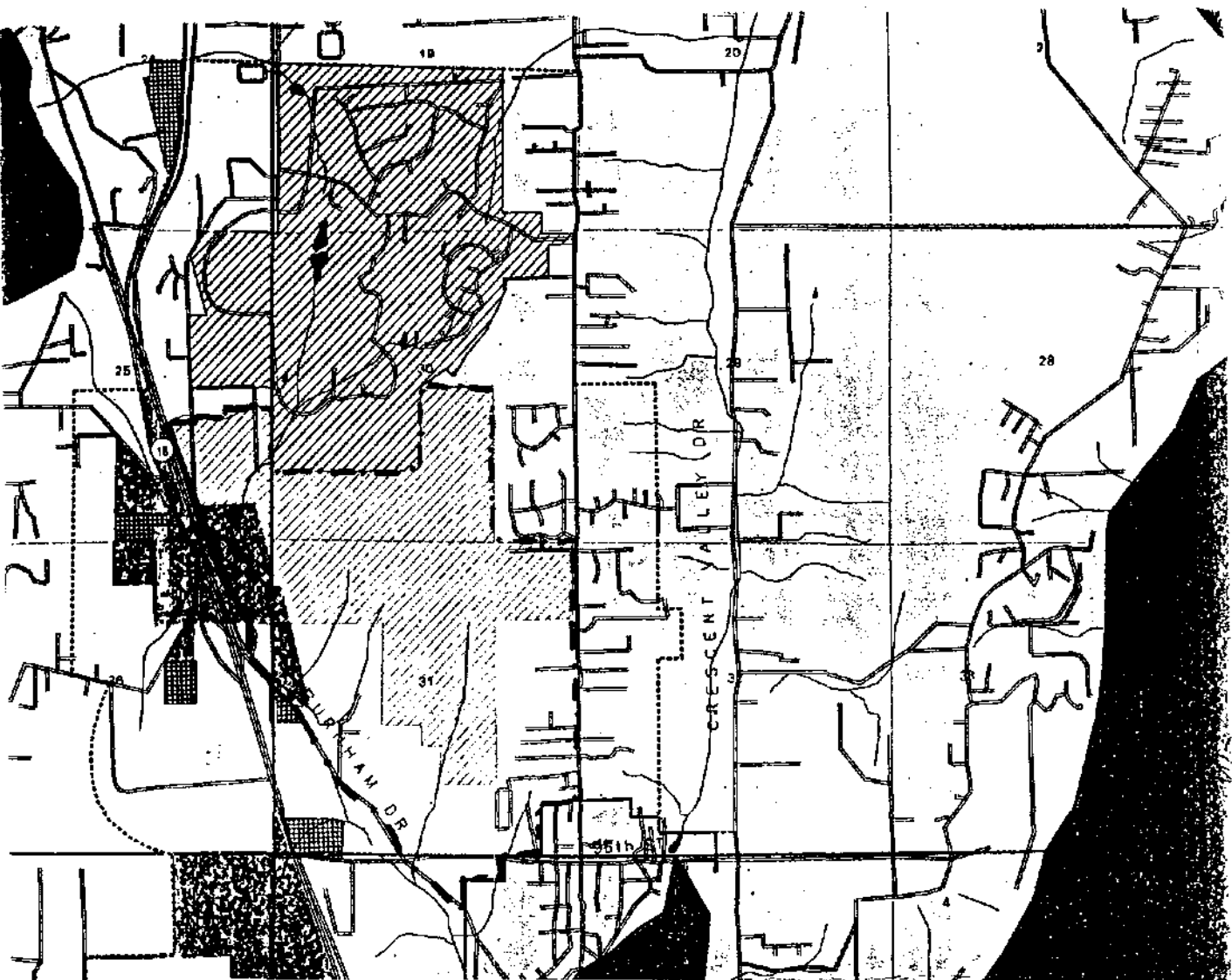
**CITY OF GIG HARBOR  
COMPREHENSIVE PLAN  
GENERALIZED LAND USE MAP**

NOVEMBER 1994



appendix b

Pierce County Comprehensive Plan  
Land Use Map for the Gig Harbor North  
Annexation Area



## Generalized Proposed Land Use

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li> High Intensity Employment Center</li> <li> Moderate Intensity Employment Ctr.</li> <li> Major Urban Center</li> <li> Activity Center</li> <li> Community Center</li> <li> Urban Neighborhood Center</li> <li> Mixed Use District</li> <li> High Density Residential District</li> <li> Moderate Density Single Family</li> <li> Rural Activity Center</li> <li> Gateway Community</li> <li> Rural Neighborhood Center</li> </ul> | <ul style="list-style-type: none"> <li> Reserve</li> <li> Rural Separator</li> <li> Rural 5</li> <li> Rural 10</li> <li> Rural/Adjacent to Forest Land</li> <li> Designated Forest Land</li> <li> Agriculture</li> <li> Agricultural Overlay</li> <li> Mineral Resource Overlay</li> <li> Community/Public Facilities Overlay</li> <li> Emp. Based Planned Comm. Overlay</li> <li> Master Planned Community Overlay</li> </ul> |
|--|--|

Adopted November 29, 1994

Ordinance No. 94-82S

appendix c

Zoning District Regulations  
Gig Harbor North Annexation

appendix d

City of Gig Harbor  
Gig Harbor North Land Use  
Matrix



### Gig Harbor North Land Use Matrix

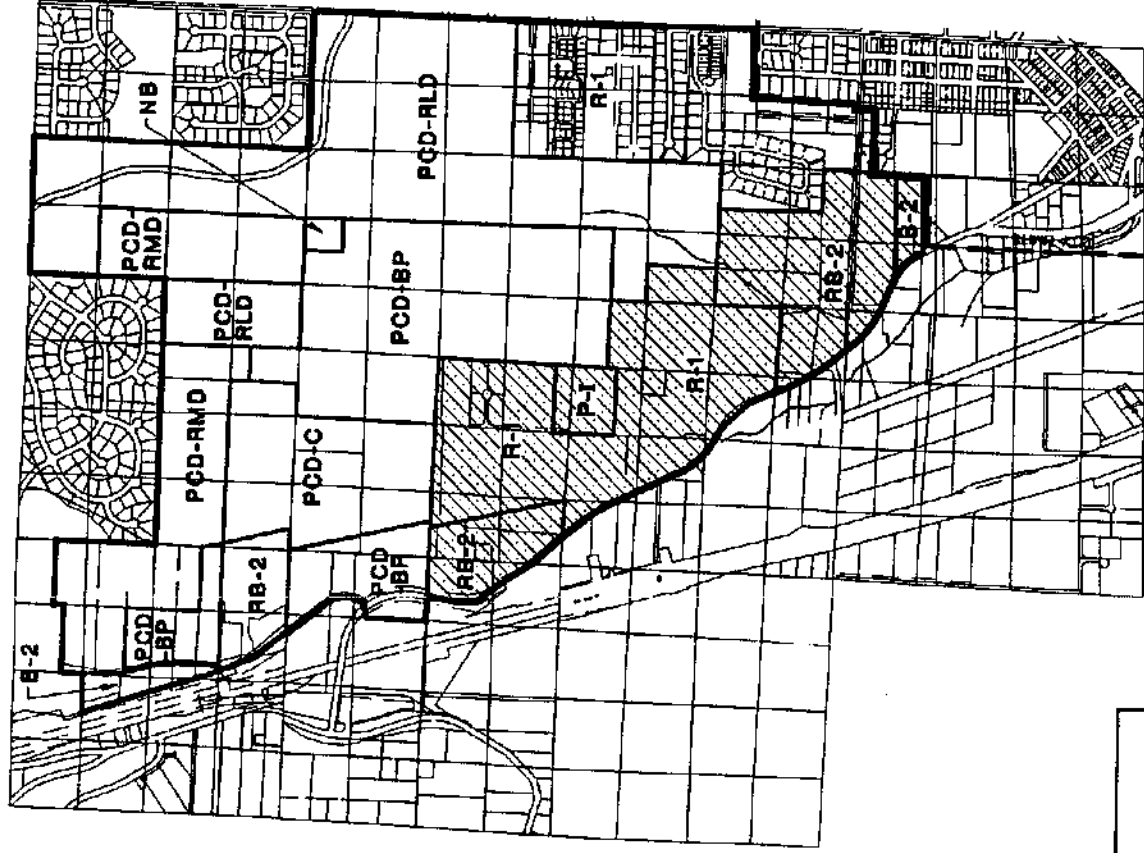
(P = permitted use; C = conditional use; N = not permitted; \* = limitations apply, refer to zoning code)  
 This matrix serves only as a general guide. For a specific use determination, please consult with Planning-Building Staff.

Zoning District						
Land Use	RLD	RMD	COMM.	BP	MUDO	NBD
Auto/Boat Repair					P*	
Bakery			P		P	P*
Bank			P			P
Business/Prof. Office			P	P	P	P
Car Wash			P			
Child Care Commercial	C	C				
Child Family Day Care	P*	P*	P		C*	
Churches	P*	P*	P		C*	
Coctail Lounges/Taverns			P			
Commercial Recreation			P		P	
Computer services				P		
Convention Centers			P			
Corporate Offices				P		
Courier/Mail/Packaging				P		
Delicatessens			P			P
Distribution				P		
Financial Institutions				P		
Govt. Offices			P	P		
Group\Adult Family Home	P	P			P	
Home Businesses	P*	P*				
Hotel/Motel			P		P	
Laundry/Dry Cleaners			P			P
Light Assembly				P		
Light Manufacturing				P	P	
Medical facilities			P			


Zoning District						
Land Use	RLD	RMD	COMM.	BP	MUDO	NBD
Mini-storage			P			
Museum/Art Gallery			P			
Nurseries			P			
Nursing homes			P			
Park/Community Recreation	P	P				
Performing Arts			P			
Photography				P		
Public Facilities	P*	P*	P		C	P*
Publishing/Printing				P		
Reprographics				P		
Research/Develop				P		
Residential - above comm.			P			P
Residential - Multifamily		P			P	
Residential - Single Family	P	P			P	
Residential - Manufactured	P*	P*				
Residential - Accessory Apt.	P*	P*				
Restaurants			P			P*
Retail sales & service			P	P*	P	P*
Retirement homes			P		P	
Schools - K-12	P	P	P			
Schools - Vocational/Trade			P	P		
Service Stations			P			P
Trails & Community Center			P	P		P
Warehousing				P		
Wholesale Sales			P			

appendix e

City of Gig Harbor  
Proposed Zoning District Map  
Gig Harbor North Annexation Area



**LEGEND:**

R-1	LOWEST FAMILY LOW DENSITY (UP TO 4 DU PER ACRE)
R-3	MEDIUM DENSITY RESIDENTIAL (UP TO 8 DU PER ACRE)
RB-2	RESIDENTIAL BUSINESS (HARD RESIDENTIAL WITH BUSINESS USES UP TO 7 DU PER ACRE WITH 15 DU PER ACRE (CONVENTIONAL))
B-2	RETAIL SALES AND SERVICE
PCD-RLD	RESIDENTIAL LOW DENSITY (BASE DENSITY OF 4 DU PER ACRE UP TO 7 DU PER ACRE WITH DENSITY CREATING)
PCD-RMD	RESIDENTIAL MEDIUM DENSITY (BASE DENSITY OF 8 DU PER ACRE UP TO 18 DU PER ACRE WITH DENSITY CREATING)
PCD-C	CLAIMED COMMUNITY GENERAL COMMERCIAL/RETAIL
PCD-BP	BUSINESS PARK
PCD-NB	NEIGHBORHOOD BUSINESS (NEW AND LIMITED TO 3 AXES)
P-T	PUBLIC INSTITUTIONAL
	WATER USE OVERLAY DISTRICT

**CITY OF GIG HARBOR  
GIG HARBOR NORTH  
GENERALIZED LAND USE MAP**



appendix f

City of Gig Harbor  
Draft Annexation Agreement  
Gig Harbor North



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

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: MARK HOPPEN, CITY ADMINISTRATOR** *MH*  
**SUBJECT: GIG HARBOR NORTH PRE-ANNEXATION AGREEMENT**  
**DATE: DECEMBER 8, 1995**

#### **INFORMATION/BACKGROUND**

The attached pre-annexation agreement results from negotiations between staff and annexation property principals in an attempt to provide a higher degree of certainty with respect to certain fundamental issues to the annexation, including: provision of water, transportation, park space, trails, and land use. **Administration, Legal Counsel, Public Works, Planning, Pope Resources, Tucci and Sons, and Logan Corporation have approved the language for your review.**

#### **POLICY CONSIDERATIONS**

The agreement itself is the best description of the accords reached. Note that certain documents relating to the East-West Road will be attached to this agreement as soon as they are constructed and approved. The land use provision contains language which provides the city with some adaptability after five years, while guaranteeing "substantially similar" development for 15 years.

#### **FISCAL CONSIDERATIONS**

This pre-annexation agreement reflects the City's commitment of \$400,000 to the East-West Road, although the proposed road segment could be built without the approval of this agreement, based upon other agreements identified as Exhibit A and Exhibit B to be attached.

Recorded at the request of \_\_\_\_\_  
After recording return to:

The City of Gig Harbor  
Administrator  
3105 Judson Street  
Gig Harbor, WA 98335

PREANNEXATION AGREEMENT  
FOR  
GIG HARBOR NORTH

THIS AGREEMENT is made and entered into this \_\_\_ day of \_\_\_\_\_, 1996, by and between the CITY OF GIG HARBOR, a non-charter, optional municipal code city organized under the laws of the State of Washington (the "City"); Pope Resources, a Delaware Limited Partnership ("Pope"); Tucci & Sons, Inc., a Washington Corporation, ("Tucci"); and Logan International Corporation, a Washington Corporation, ("Logan"); (collectively "the Owners").

**RECITALS**

A. The City has the authority under the laws of the State of Washington to enact laws and enter into agreements to promote the health, safety and welfare of its citizens and thereby control the use and development of property within its jurisdiction, and to undertake the annexation of contiguous property located outside of its boundaries pursuant to Ch. 35A.14 RCW.

B. The Owners hereby warrant that they are the owners of certain real property situated in unincorporated Pierce County, Washington, part of a geographic area commonly referred to as Gig Harbor North, located contiguous to the city limits of Gig Harbor. The property owned by the owners herein is more particularly described in Exhibit 'C', attached hereto and incorporated herein by this reference (the "Property").

C. In 1991, the Owners initiated an inquiry with the City about the City's interest in annexing the Gig Harbor North area, including, but not limited to the Property. The City indicated an interest and a willingness to entertain such an annexation, so long as the annexed properties were

developed under the City's applicable Comprehensive Plan designations and development regulations. Thereafter, the Owners and other property owners in the Gig Harbor North community submitted to the City a notice of Intention to Commence Annexation Proceedings.

D. On July 8, 1991, the City Council made a motion to accept the proposed Gig Harbor North annexation in concept and authorized the initiators thereof to circulate an annexation petition. In that resolution, the City directed the preparation and adoption of proposed zoning regulations and Comprehensive Plan designations for the area, to become effective coincidental with annexation.

E. On May 5, 1993, the Owners and other owners of property in the Gig Harbor North community submitted to the City a petition for annexation of the Gig Harbor North area signed by the owners of more than sixty percent (60%) of the assessed valuation of the property to be annexed, and such petition for annexation is pending before the City Council.

F. On ~~XXXXXX~~, in accordance with Ordinance No. (to be adopted), the City Council has adopted zoning and development regulations and Comprehensive Plan designations for the Owner's Property.

G. The parties now wish to enter into this Agreement as contemplated by ~~Ordinance No. (to be adopted)~~ in order to set forth in greater detail the provisions contemplated by such resolution with respect to the annexation of the Property.

H. Draft and Final Environmental Impact Statements were issued by the City concerning the annexation and development of Gig Harbor North on October 7, 1992 and February 24, 1993 respectively.

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



## AGREEMENTS

1. Support of Annexation. The Owners hereby agree to support the Gig Harbor North annexation before the City Council as such annexation is proposed in Ordinance No. \_\_\_\_\_ as further defined in this Agreement and described in the annexation petition for the Gig Harbor North area submitted to the City.

2. Administration of Development Approvals Applied For After Gig Harbor North Annexation. Any application by the Owners for a land use or building permit or zoning approval including, but not limited to, preliminary plat approvals, final plat approvals, clearing, grading, building or other permits, binding site plans, etc., for the Owners' Property shall be made to the City after the effective date of the annexation. All such applications shall be reviewed and processed by the City under the terms of all applicable Gig Harbor Municipal Codes, regulations, resolutions, ordinance provisions which relate to development and this Agreement.

3. Public Facilities.

A. Water Transmission Main and Storage Tank.

(i) The Owners agree to provide water storage and transmission facilities sufficient in size and design to accommodate the demands of development of the Property. The City agrees to provide, consistent with its regulations and ordinances in place at the time of demand, water supply and water facilities which, in conjunction with these facilities provided by the Owner, will be sufficient to serve the Property.

(ii) The facilities to serve the property are an effective 1,500,000-gallon water storage tank and major water transmission line 16 inches in diameter. This 1.5-million-gallon storage tank is going to be capable of providing a maximum of 3,000 gallons per minute for a duration of 3 hours. If any development proposal necessitates a higher fire flow, building modifications will be made to offset the higher fire flow requirements. The City agrees that if these facilities are not now consistent with the City's Comprehensive Plan (as such policies relate to water facilities) it shall

make any clarifications and/or amendments to the Plan at the next annual comprehensive plan amendment as necessary to ensure Plan consistency. The Owners agree to construct these facilities to be financed through Developer Extension Agreements pursuant to chapters 35.91 and 35.72 RCW, or in the alternative, the Developers agree not to protest the formation of one or more LID for the facilities, which the City may create at the Owners' request as set forth in the City's codes, ordinances and applicable state law. The Owners shall be entitled to the capacity in the 1.5 million gallon water storage tank, if constructed solely at the Owner's cost, and shall be permitted to develop their respective parcels to the extent that such capacity would support.

(iii) The Owners agree not to protest in the formation of an LID to finance construction of more expansive water facilities serving the Property and the surrounding area, which shall be defined as follows: a 2.3-million-gallon water storage tank, capable of providing a maximum of 3,000 gallons per minute for a duration of three (3) hours; provided that (1) the owner's assessment for the LID is based upon the special benefit, if any, accruing to the owner's property, as described in chapter 35.44 RCW; and (2) the LID is formed before they construct the facilities described in Section 3(A)(iii) above.

Construction of water transmission and storage facilities as necessary to serve the development on the Property, or portion actually proposed to be developed from time to time shall occur before issuance of any building permit for the Property, or portion thereof.

B. Road Construction Improvements.

(i) East-West Road. The parties contemplate that a road will be built from Swede Hill east in accordance with the specifications and plans incorporated into a document entitled "City of Gig Harbor and Pierce County - Swede Hill Corridor," and a document between the same parties to this Agreement, entitled "~~(to be added prior to adoption)~~" included herein as Exhibits "A" & "B". The first document describes the relationship between the City and Pierce County for the funding and construction of the Swede Hill transportation facility. The second document describes the relationship between Pope, Logan, and the City (dated ~~(to be added)~~) for the Owner's contribution of Right-of-Way for the Swede Hill transportation facilities, and the City's construction of same.

The City shall consider the Owner's dedication of the Right-of-Way as mitigation for the transportation impacts of the development of the Property.

(ii) Peacock Connection. The City also intends to develop an associated, second arterial road extending northwesterly from the East-West Road to Peacock Hill Avenue north of 112th Street. This roadway is planned to be located within the boundaries of the parcels identified with the description of the roadway corridor on Exhibit "D", incorporated herein by reference, with the exact location to be determined by the Owners and City Engineer. The City shall have twelve months after execution of this Agreement to conduct a preliminary feasibility study for construction of this road in this location. One of the owners currently retains an access easement, which may facilitate the construction of this road, which is more particularly described in the attached Easement marked Exhibit "E", incorporated herein by this reference. The owner agrees not to sell, transfer or convey this easement to any third party during this twelve month period while the City conducts such study. If the study reveals feasibility at a cost satisfactory to the City, the Owners agree to dedicate a right of way which corresponds with this easement for construction of this road. The Owners will construct the segment of the road within the annexation area to use as local access to serve a portion of the Property. The Owners shall only be obligated to improve the road as determined by the City Traffic Engineer to serve development on its Property. Any expense to widen, extend or improve the road beyond a two-lane road which is improved to a width of thirty-six feet maximum from curb to curb, and which is improved with gutters, curbs and sidewalks on both sides of the street shall be borne by the City.

The City shall not prohibit the installation of driveways which intersect this two-lane road, on the preliminary plat submitted by the applicants, as long as such driveways are consistent with the Public Works standards relating to site distance and safety.

C. Parks.

(i) Background. The Gig Harbor Comprehensive Plan defines the City's existing level of service standard for park and recreation facilities.

(ii) Dedication of Parks or Payment of Fees Upon Submission of Applications. Because no development applications have yet been submitted to the City for review, the City cannot

accurately forecast the demand for park and recreation facilities within property set forth in Exhibit "C" in the Gig Harbor North annexation area. Owners hereby agree, consistent with the Plan, and any other applicable City ordinances or codes, to dedicate or pay fees in lieu of dedication to provide park land and recreation facilities at the level-of-service standard in effect by the City at the time any development application is submitted to the City. Alternatively, if the City has adopted a park impact fee ordinance at the time any development application is submitted, Owners agree to the adopted park impact fee.

If dedication is selected, then such dedication shall be made of the property, or portions of the property, shown on the map attached hereto as Exhibit "F". The parties agree to execute a right of first refusal with the City for the City's purchase of the property shown on Exhibit "F", which may be exercised in the period between the ninth annual anniversary date of this Agreement until the expiration of this Agreement 10 years after the execution date of this Agreement. Whatever property remains in the area depicted in Exhibit "F", during the ten years after the date of execution of this Agreement may be purchased by the City under a Right of First Refusal.

D. Trails.

Any trails associated with the development of the Owners' property shall be designed and shall be consistent with the adopted City of Gig Harbor Park Comprehensive Plan trail element in effect at the time of application.

E. Conveyance of Infrastructure.

The Owners agree to convey to the City any water transmission mains, water storage tanks, or any other type of water facilities and roadways constructed by them as described in this Agreement upon construction, approval and the City's acceptance of the same. Such conveyance shall occur at no additional cost to the City. As a prerequisite to such conveyance and acceptance, the Owners will furnish to the City the following:

(i) As built plans or drawings prepared by a Professional Engineer licensed in the State of Washington;

(ii) Any necessary easements, permits or licenses for the continued operation, maintenance, repair or reconstruction of such facilities by the City, in a form approved by the City Attorney;

(iii) A bill of sale form approved by the City Attorney; and,

(iv) A bond or other suitable security in a form approved by the City Attorney and in an amount approved by the Public Works Director, ensuring that the facilities described in this Agreement will remain free from defects in workmanship and materials for a period of two (2) years.

F. Utility Connection Charges.

The Owners agree to pay the applicable charges as a condition of connecting to the City utility system at the rate schedule in effect at the City at the time the Owner actually requests to connect its Property to the system.

G. Latecomer and Waivers of LID Formation Provisions.

(i) The City may form a Local Improvement District for the construction and installation of the improvements described in this Agreement. In lieu of the formation of LIDs to fund the improvements, the Owners may construct the improvements, and the City may authorize the same, pursuant to reimbursement or latecomer's agreements as described in Chapters 35.91 and 35.72 RCW.

(ii) Owners agree to sign a petition for the formation of an LID for the specified improvements at such time as one is circulated and Owner hereby appoints the Mayor of the City as his/her/its attorney-in-fact to sign a petition in the event Owner fails or refuses to do so. With full

understanding of Owner's right to protest an LID or ULID to construct the improvements described in this Agreement, Owner agrees to participate in such LID or ULID and to waive his right to protest formation of the same. The Owners shall retain the right to contest the method of calculating any assessment and the amount thereof, and shall further retain the right to appeal the decision of the City Council affirming the final assessment roll to the superior court.

H. Land Use.

(i) The City's Comprehensive Plan, as adopted in 1994, contemplates the adoption of certain zoning districts for Owners' property. The adoption of such districts will be consequent to City Council approval of annexation zoning for property identified in Exhibit "C", attached hereto.

(ii) The City agrees to amend the City Zoning Ordinance, Title 17 of the Gig Harbor Municipal Code, to include these new development regulations in implementing the Planned Community designation of the City of Gig Harbor Comprehensive Plan, which include:

- PCD Residential Low Density
- PCD Residential Medium Density
- PCD Commercial
- PCD Neighborhood Commercial
- PCD Business Park
- PCD Density Credits Transfer Option

(iii) Said zoning districts provide standards solely for permitted and conditional uses within the PCD designation, the text of which is contained in Exhibit "G" attached hereto and incorporated herein by this reference. A map showing the application of these zoning districts on the Owners' property is attached hereto as Exhibit "H".

(iv) The parties mutually understand that development of the Owners' Property will in all likelihood not be completed for up to 15 years after the contemplated annexation, and it is the intent of the parties to permit completion of such development pursuant to land use and zoning regulations substantially similar to those now proposed in this document for the properties identified in Exhibit

"H". Notwithstanding any provision of this Agreement, for five years after the date of this Agreement, the City shall not amend the laws, ordinances, regulations, and policies that affect the development of the Owner's Properties without the consent of the Owner whose property is affected.

(v) In the event the Owners, with regard to their respective properties, desire to amend the applicable development regulations, the procedures for notice, hearings, and review of any such proposed amendment shall be those contained in the City of Gig Harbor Municipal Code as adopted by the City.

(vi) If the City should initiate any amendment to the development regulations applicable to any district within the PCD designation, then prior to conducting any public hearing on such change it shall provide timely notice to the affected property owners as described in Gig Harbor Municipal Zoning Code or the current version of the Zoning Code relating to such notice in effect at the time the amendment is proposed.

I. Administrative Provisions.

(i) The City agrees that this Agreement will be executed simultaneously with the City Council's approval of the Gig Harbor North annexation.

(ii) The Owner's Property is the only property expressly subject to the Agreement, and this Agreement shall not be binding with regard to other real property which may be annexed simultaneously with the Owners' Property as part of the Gig Harbor North annexation, pursuant to City Ordinance No. . Nevertheless, the effect of the City's annexation is to subject all property in the Gig Harbor North annexation area to the City's zoning, land use and building laws, ordinances, policies, rules and regulations, and the City may enact ordinances so providing, consistent with its 1994 Comprehensive Plan (or as such plan may be amended).

(iii) This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.

(iv) With the exception of the provisions in section H herein, this Agreement shall be effective for a period of ten (10) years after execution of this Agreement by both parties. Time is of the essence of this Agreement and of every provision hereof.

(v) In case of any breach of this Agreement, the non-defaulting party shall be entitled to maintain an action for damages, specific performance, or any other remedy afforded at law or in equity. If such action is brought to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs and expenses.

(vi) This Agreement shall be governed by the laws of the State of Washington.

(vii) The rights and obligations of the Owners under this Agreement are assignable.

(viii) This Agreement can only be amended by a written agreement signed by a duly authorized representative of the City and the Owners.

(ix) This Agreement shall be filed for recording with the Pierce County Auditor's Office at the expense of the Owners and shall constitute a covenant running with the land described in Exhibit "C" and shall be binding upon the owners, heirs and their heirs, assigns and legal representatives.

(x) Notwithstanding the language in Section H herein, the City hereby reserves the right to impose new or different regulations applicable to the property, to the extent required by a serious threat to public health and safety.



(xi) The captions in this Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

(xii) If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby.

CITY OF GIG HARBOR:

OWNERS:

By \_\_\_\_\_

\* *[Signature]*  
Pope Resources

Its Mayor

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

Dated: DECEMBER 7, 1995

\_\_\_\_\_  
Tom Tucci

\_\_\_\_\_  
Diane Tucci

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

\_\_\_\_\_  
Logan International Corporation

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

Signature indicates preliminary commitment subject to Gig Harbor City  
\*Council approval and several final clarifying amendments.

(xi) The captions in this Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

(xii) If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby.

CITY OF GIG HARBOR:

OWNERS:

By \_\_\_\_\_

\_\_\_\_\_  
Pope Resources

Its Mayor

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

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

*[Handwritten Signature]*  
\_\_\_\_\_  
~~Don Tucci~~ Tucci & Sons INC.

*[Handwritten Signature]*  
\_\_\_\_\_  
Diane Tucci

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

\_\_\_\_\_  
Logan International Corporation

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

(xi) The captions in this Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

(xii) If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby.

CITY OF GIG HARBOR:

OWNERS:

By \_\_\_\_\_

\_\_\_\_\_  
Pope Resources

Its Mayor

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

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

\_\_\_\_\_  
Tom Tucci

\_\_\_\_\_  
Diane Tucci

Dated: \_\_\_\_\_  
\*\*  J.P.  
Logan International Corporation

Dated: 12/7/95

\*\* Signature indicates preliminary commitment subject to Gig Harbor City Council approval and review and approval of the final document including exhibits.

(xi) The captions in this Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

(xii) If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby.

CITY OF GIG HARBOR:

OWNERS:

By \_\_\_\_\_

\_\_\_\_\_

Pope Resources

Its Mayor

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

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

\_\_\_\_\_

Tucci & Sons, Inc.

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

\_\_\_\_\_

Logan International Corporation

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

STATE OF WASHINGTON            )  
  ) ss.  
COUNTY OF PIERCE            )

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
\_\_\_\_\_  
(Type or Print Name)  
NOTARY PUBLIC for the State  
of Washington, residing at

\_\_\_\_\_  
My commission expires \_\_\_\_\_.

STATE OF WASHINGTON            )  
  ) ss.  
COUNTY OF PIERCE            )

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
\_\_\_\_\_  
(Type or Print Name)  
NOTARY PUBLIC for the State  
of Washington, residing at

\_\_\_\_\_  
My commission expires \_\_\_\_\_.

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF PIERCE         )

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
\_\_\_\_\_  
(Type or Print Name)  
NOTARY PUBLIC for the State  
of Washington, residing at  
\_\_\_\_\_  
My commission expires \_\_\_\_\_.

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF PIERCE         )

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
\_\_\_\_\_  
(Type or Print Name)  
NOTARY PUBLIC for the State  
of Washington, residing at  
\_\_\_\_\_  
My commission expires \_\_\_\_\_.

Exhibit "A"

Exhibit "B"



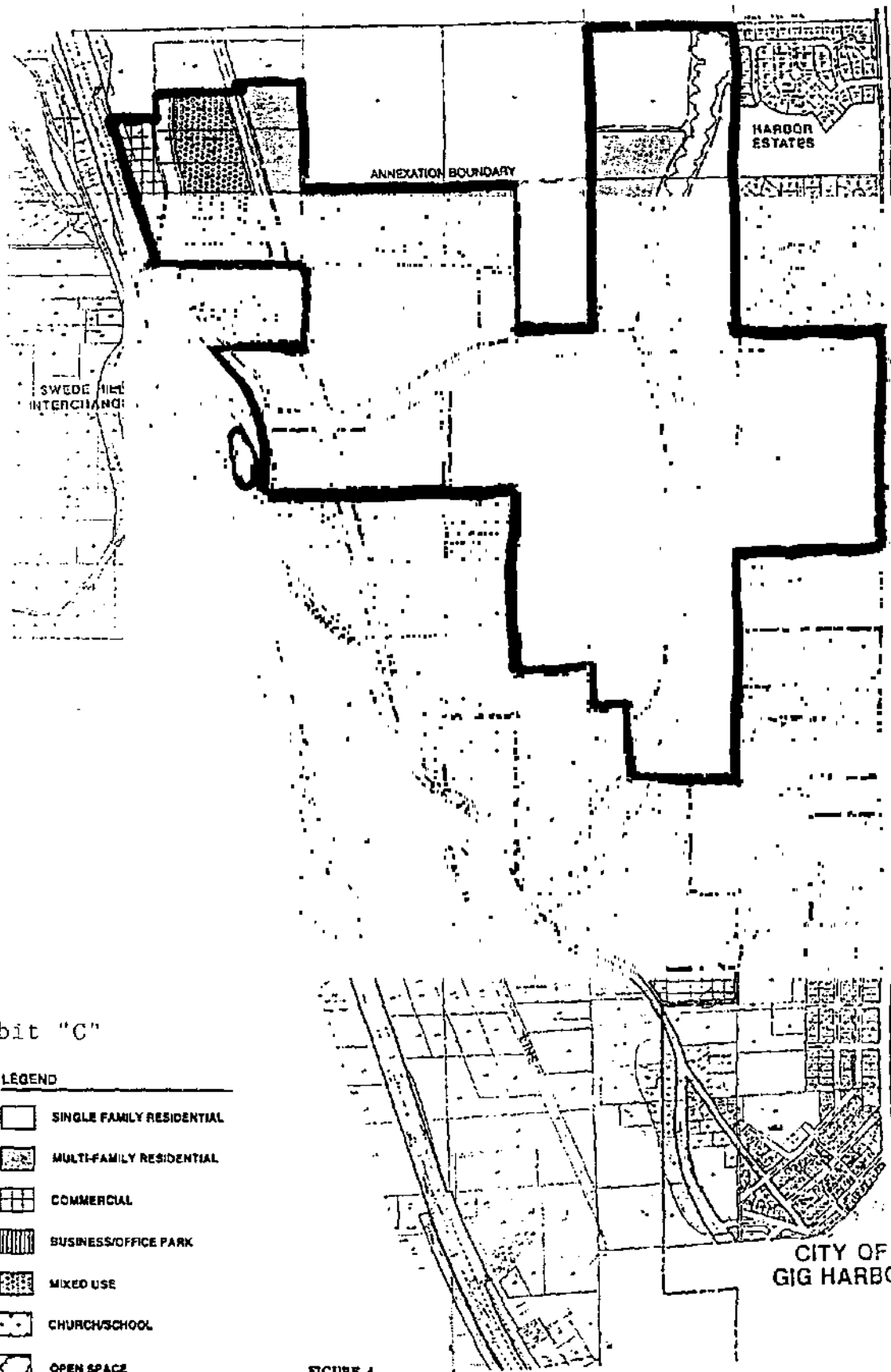


Exhibit "C"








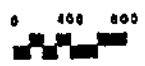
- LEGEND**
-  SINGLE FAMILY RESIDENTIAL
  -  MULTI-FAMILY RESIDENTIAL
  -  COMMERCIAL
  -  BUSINESS/OFFICE PARK
  -  MIXED USE
  -  CHURCH/SCHOOL
  -  OPEN SPACE

FIGURE 4

GIG HARBOR NORTH ANNEXATION AREA  
 City of Gig Harbor, Washington

PROPOSED LAND USE



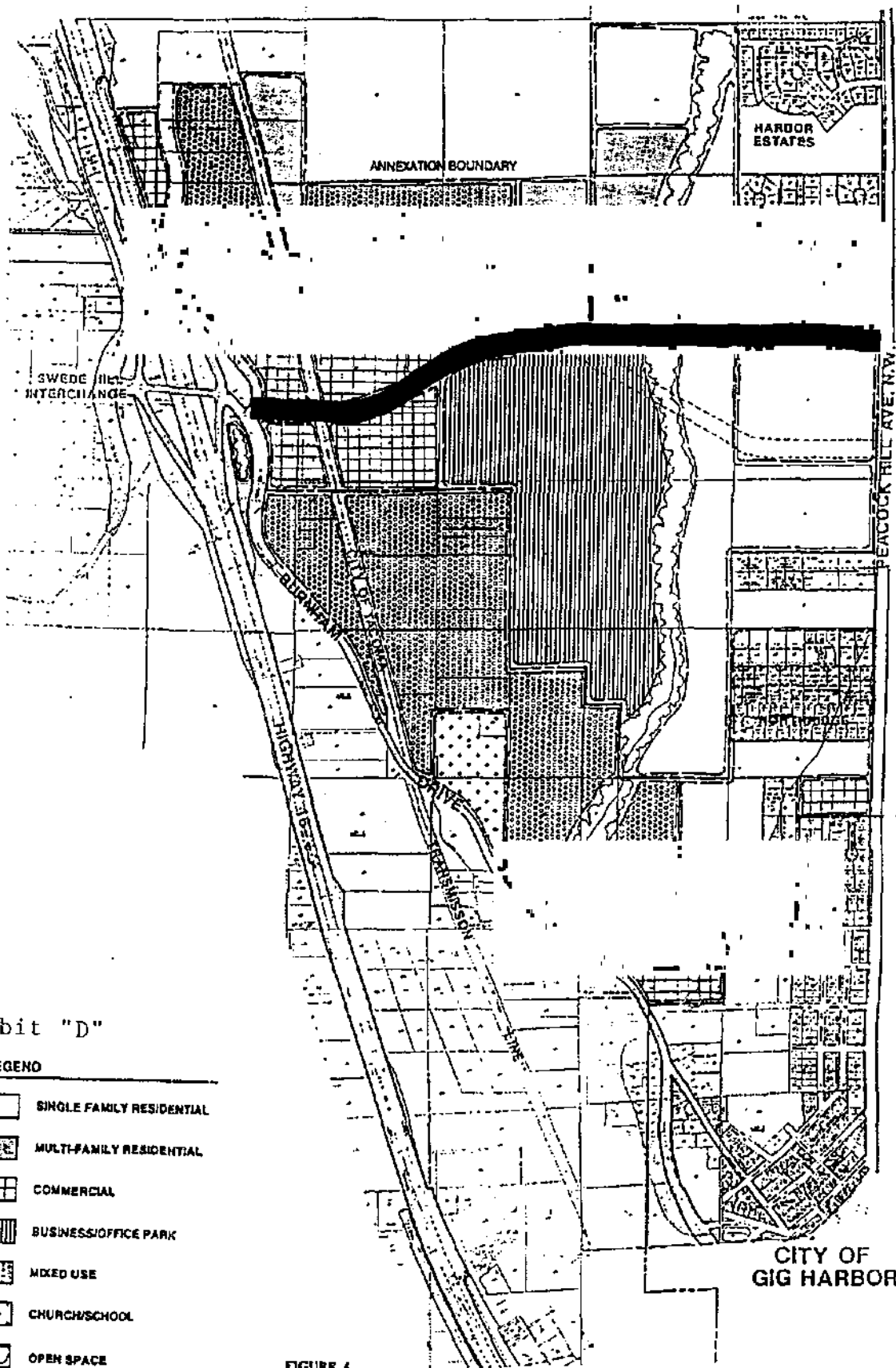


Exhibit "D"

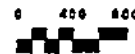
LEGEND

-  SINGLE FAMILY RESIDENTIAL
-  MULTI-FAMILY RESIDENTIAL
-  COMMERCIAL
-  BUSINESS/OFFICE PARK
-  MIXED USE
-  CHURCH/SCHOOL
-  OPEN SPACE

FIGURE 4

GIG HARBOR NORTH ANNEXATION AREA  
 City of Gig Harbor, Washington

PROPOSED LAND USE



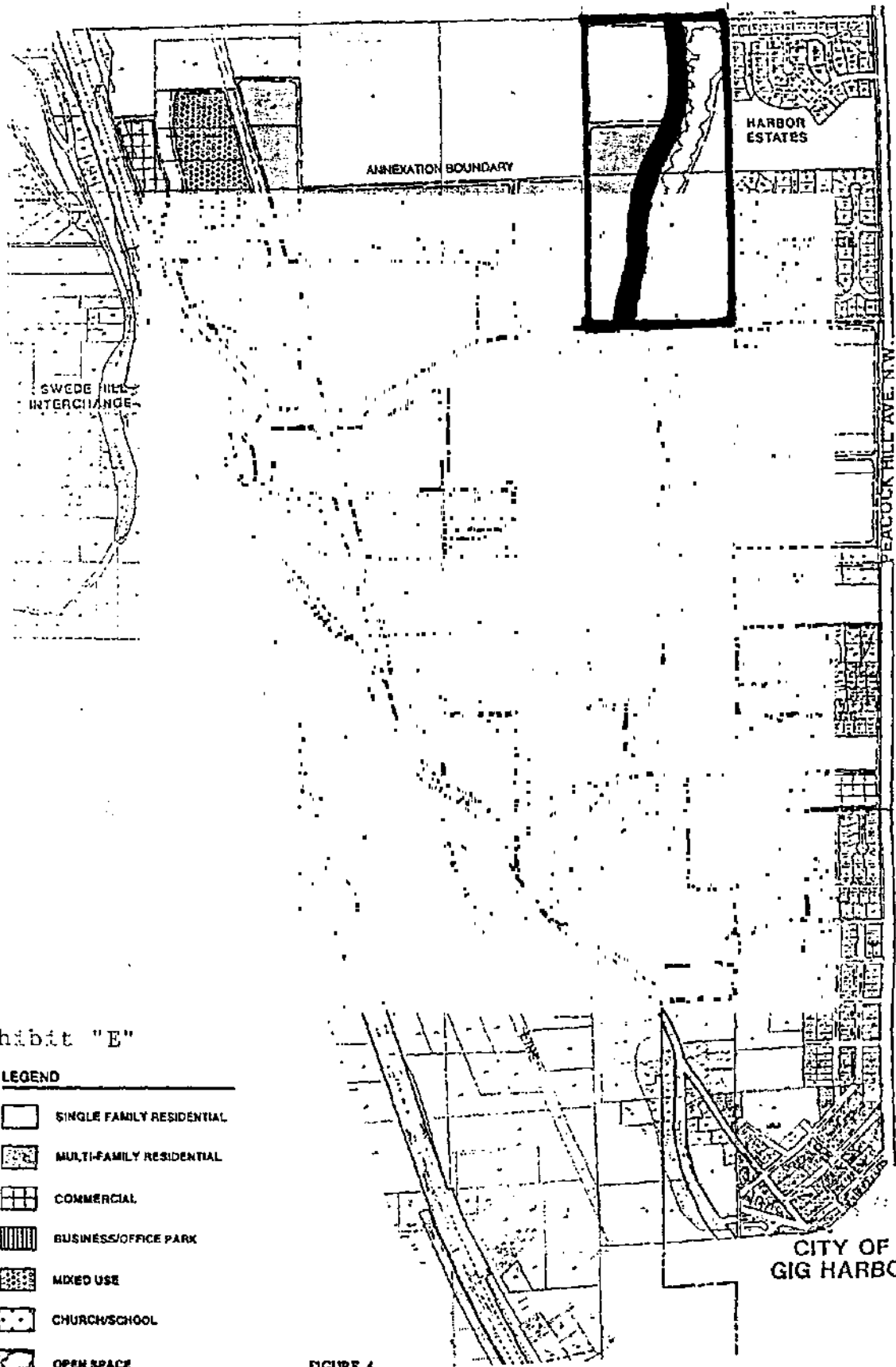


Exhibit "E"

LEGEND

-  SINGLE FAMILY RESIDENTIAL
-  MULTI-FAMILY RESIDENTIAL
-  COMMERCIAL
-  BUSINESS/OFFICE PARK
-  MIXED USE
-  CHURCH/SCHOOL
-  OPEN SPACE

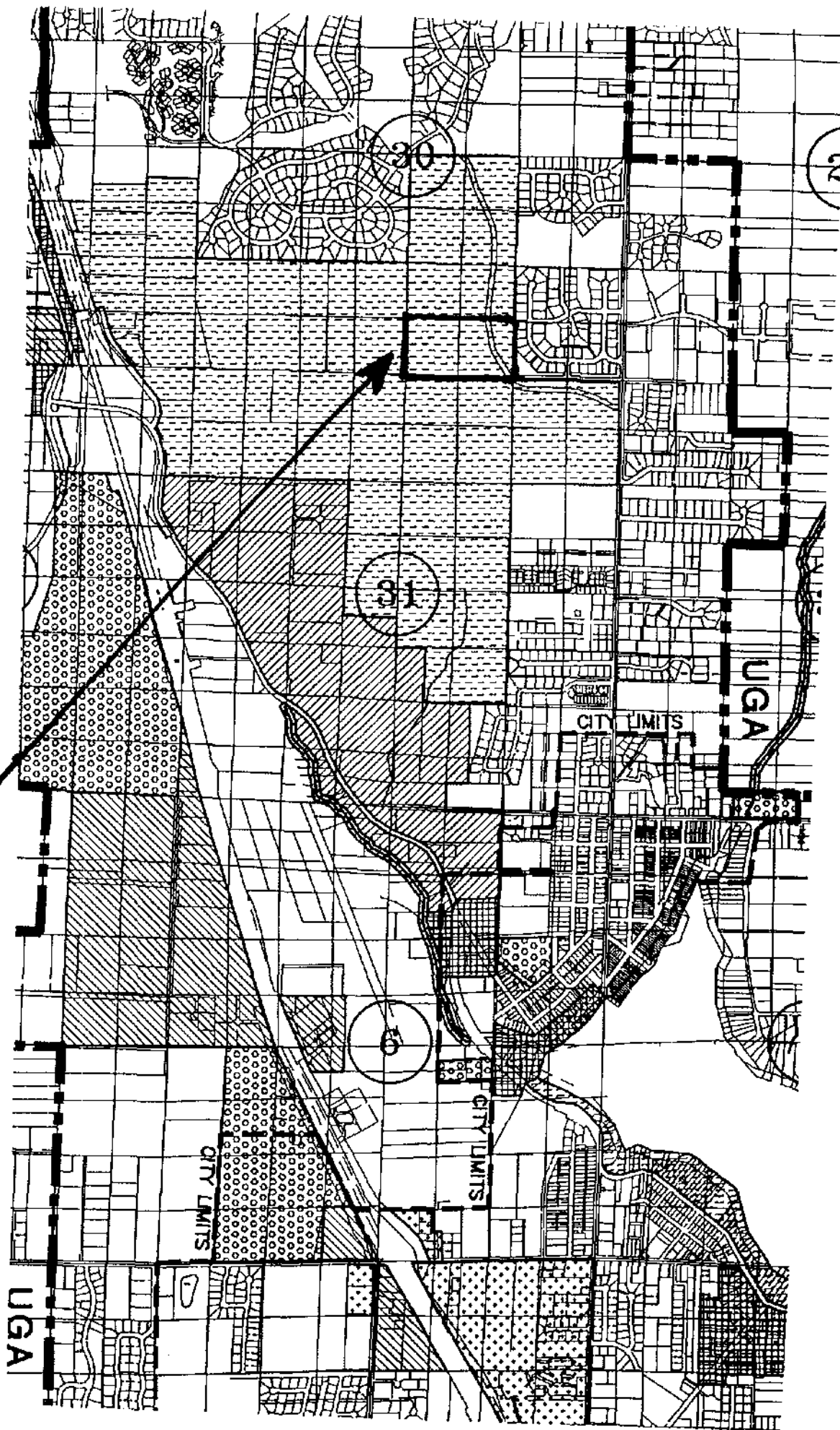
FIGURE 4

GIG HARBOR NORTH ANNEXATION AREA  
City of Gig Harbor, Washington

PROPOSED LAND USE



Exhibit "F"  
PARK DEDICATION



## EXHIBIT "G"

### **Planned Community Development**

#### **Residential Low Density**

Provide for low density (3 - 6 dwelling units per acre) residential developments.

### **Planned Community Development**

#### **Residential Medium Density**

Provide for greater population densities (8 to 16 dwelling units per acre) to facilitate high quality affordable housing, a greater range of lifestyles and income levels.

### **Planned Community Development**

#### **Commercial**

Provides for the location of businesses serving shoppers and patrons on a wider basis as distinguished from a neighborhood area.

### **Planned Community Development**

#### **Business Park**

The Business Park District provides for the location development and operational standards for technology research and development facilities, light assembly and warehousing, associated support service and retail uses, business and professional office uses, corporate headquarters and other supporting enterprises. Retail uses are not encouraged in order to preserve these districts for major employment opportunities and to reduce the demand for vehicular access.

### **Planned Community Development**

#### **Neighborhood Business**

The intent of the Neighborhood Business District (NBD) is to provide for businesses serving the everyday needs of neighboring residents. The NBD is limited in overall site area and availability of uses and is not intended to provide regional retail facilities.

### **Planned Community Development**

#### **Transfer of Density Credits Option**

The intent of the density credit transfer option is to permit greater flexibility in the allocation of residential density within a Planned Community Development residential without exceeding the maximum density buildout as planned for. The density transfer credit option may provide for higher densities in areas posing the fewest environmental constraints and which also have available access to public transportation.

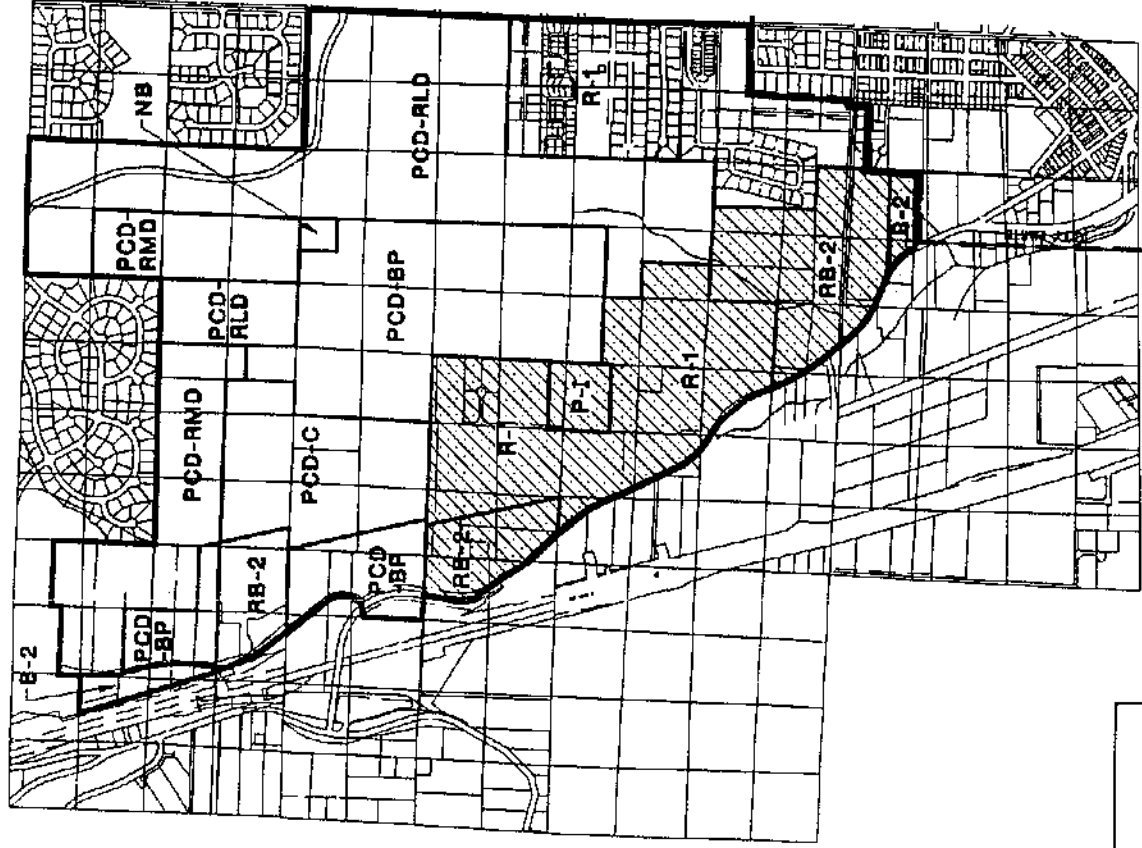
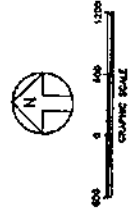


EXHIBIT 'R'

LEGEND:

R-1	SINGLE FAMILY LOW DENSITY (UP TO 4 DU PER ACRE)
R-3	MEDIUM DENSITY RESIDENTIAL (UP TO 8 DU PER ACRE)
RB-2	RESIDENTIAL-BUSINESS (USED RESIDENTIAL WITH BUSINESS BASE DENSITY OF UP TO 8 DU PER ACRE. IT IS DU PER ACRE CONDITIONALLY)
B-2	RETAIL SALES AND SERVICE
PCD-RLD	NEIGHBORHOOD LOW DENSITY (BASE DENSITY OF 4 DU PER ACRE, UP TO 7 DU PER ACRE WITH DENSITY CREDITS)
PCD-RMD	RESIDENTIAL MEDIUM DENSITY (BASE DENSITY OF 8 DU PER ACRE, UP TO 14 DU PER ACRE WITH DENSITY CREDITS)
PCD-C	PLANNED COMMUNITY GENERAL COMMERCIAL/RETAIL
PCD-BP	BUSINESS PARK
PCD-NB	NEIGHBORHOOD BUSINESS (SEE AREA LIMITED TO 3 ACRE)
P-I	PUBLIC INSTITUTIONAL
[Hatched Box]	MIXED USE OVERLAY DISTRICT

CITY OF GIG HARBOR  
GIG HARBOR NORTH  
GENERALIZED LAND USE MAP



# R-1 District

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## Allowable Use and Standards

(as of 3 November 1995)

17.16.010 Intent.

An R-1 district is intended to provide for low density, single-family residential development for certain community services and facilities while preserving the character of the existing single-family residential areas.

17.16.020 Permitted principal uses and structures.

The following principal uses and structures are permitted in an R-1 district:

- A. Single-family dwelling;
- B. Agricultural uses including nurseries and truck gardens as long as objectionable odors or dust are not created;
- C. Publicly owned and operated parks and playgrounds;
- D. Temporary buildings for and during construction;
- E. Family day care centers serving six or fewer children in a home; and
- F. Uses and structures that are necessary or desirable adjuncts to permitted uses and structures and are under the management and control of the person, organization or agency responsible for the permitted principal use or structure.

17.16.030 Conditional uses.

Subject to the requirements of Chapter 17.64 GHMC and the standards and procedures for conditional uses as set forth in this title, the following uses may be permitted in an R-1 district:

- A. Child care facilities serving more than six children outside of a home in an institution;
- B. Public utilities and public service uses such as libraries, electric substations, telephone exchanges and police, fire and water facilities;
- C. Schools, including playgrounds and athletic fields incidental thereto;
- D. Houses of religious worship, rectories and parish houses;
- E. Home occupations;
- F. Bed and breakfast establishments;
- G. Accessory apartment. When reviewing a conditional use request for an accessory apartment, the hearing examiner shall consider the following guidelines:
  - 1. The required parking space for the accessory apartment is placed behind the primary structure or is paved with grass-block pavers to avoid an expansive area of hard surface,
  - 2. The accessory apartment is attached to or placed at least six feet behind the primary structure,
  - 3. The design of the accessory apartment is incorporated into the primary unit's design with matching materials, colors, window style and roof design,



4. The entrance to the accessory apartment is oriented away from the view of the street or is designed to appear as a secondary entrance to the primary unit (e.g., garage entrance or service porch entrance),

5. Utilities for the accessory apartment shall be metered separate from the primary dwelling unit,

6. The accessory apartment and the primary unit conforms to all other building and zoning code requirements.

#### 17.16.040 Prohibited uses and structures.

The following uses and structures are prohibited in an R-1 district:

A. Those not listed under GHMC 17.16.020, permitted principal uses and structures and 17.16.030, conditional uses;

B. The storage of mobile homes;

C. Any use including permitted and conditional uses that causes or may reasonably be expected to cause excessive noise, vibration, odor, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the lot on which the use is located. The word "excessive" is defined for these purposes as a degree exceeding that generated by the customary manner of operation of the uses permitted in the district or as a degree injurious to the public health, safety, welfare or convenience; and

D. Mobile/manufactured dwelling.

#### 17.16.050 Site plans.

Before a building permit will be issued for a nonresidential use or structure in an R-1 district, the site plan review process as specified in Chapter 17.96 GHMC shall be followed.

#### 17.16.060 Minimum lot size/maximum density.

Twelve thousand square feet for new divisions of land. Undersized lots shall qualify as a building site if such lot is a legal lot of record. Maximum density is 3.5 dwelling units per gross acre.

#### 17.16.070 Development standards.

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

- |  |        |
|--|--------|
| A. Minimum lot area per building site in square feet | 12,000 |
| B. Minimum lot width                                 | 70'    |
| C. Minimum front yard setback*                       | 25'    |
| D. Minimum rear yard setback                         | 30'    |
| E. Minimum side yard setback                         | 8'     |
| F. Maximum impervious lot coverage                   | 40%    |

G. Minimum street frontage 20'

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

17.16.080 Maximum height of structures.

In an R-1 district, all buildings and structures shall have a maximum height of 16 feet except as provided for under Chapter 17.62 GHMC, height overlay district.

# RB-2 District

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## Allowable Use and Standards

(as of 3 November 1995)

17.30.020 Permitted uses and structures.

The following uses and structures are permitted in an RB-2 district:

- A. Multiple-family dwellings;
- B. Bed and breakfast accommodations;
- C. Business and professional offices as described in GHMC 17.28.020;
- D. Retail uses clearly accessory to the principal office use of a structure;
- E. Day care centers containing six or fewer children;
- F. Publicly owned parks and playgrounds; and
- G. Banking institutions.

17.30.030 Conditional uses.

Subject to the procedures and other provisions for conditional uses as set forth under this title, the following uses may be permitted in an RB-2 district:

- A. Day care centers containing more than six children;
- B. Nursing homes and retirement centers;
- C. Recreational buildings and community centers;
- D. Public utilities and facilities;
- E. Schools, public and private;
- F. Churches and nonprofit clubs;
- G. Mini-warehousing; and
- H. Light assembly and associated storage.

17.30.050 Development standards.

In an RB-2 district, development standards shall be satisfied for all new and redeveloped uses requiring site plan review:

- A. Minimum lot area: 12,000 square feet;
- B. Minimum lot width: 70 feet;
- C. Front yard setback: 20 feet;
- D. Side yard setback: eight feet;
- E. Rear yard setback: 15 feet;
- F. Any yard abutting an existing residential use or zone: 40 feet with dense vegetative screening.

Easements not having dense vegetative screening are not included;

- G. Density: Eight dwelling units per acre permitted outright; 12 dwelling units per acre maximum allowed as a conditional use.

17.30.060 Site coverage.

Impervious site coverage in an RB-2 district shall be limited as follows:

A. Fifty-five percent site coverage is permitted outright.

B. Seventy percent site coverage is conditionally allowed, subject to the following:

1. For every one percent increase in site coverage, an additional 0.5 feet of buffer shall be provided between the use and adjacent single family residential use or zone;

2. Increased buffering shall consist of one of the following:

a. Undisturbed native vegetation which meets the definition of a dense vegetative screen,

b. Appropriate landscape vegetation consisting of a mixture of coniferous and broadleaf evergreen species with minimum planting height of six feet and capable of providing a dense vegetative screen within three years of planting,

c. As an alternative to paragraph b of this subdivision, the opaque portion of the screen may consist of a weather-resistant wood fence of six feet in height, constructed along the property line.

C. Buffer vegetation shall be maintained for the life of the project. Dead, diseased or dying vegetation may be removed, provided that replanting of vegetation of a like or similar species in size and area coverage shall be accomplished within six months from removal.

17.30.070 Maximum building height.

Maximum building height in an RB-2 district shall be limited as follows:

A. Twenty-eight feet within the first 100 feet of an existing residential use or zone;

B. Thirty-five feet for structures located more than 100 feet from an existing residential use or zone. (Ord. 554 § 1G, 1989).

17.30.080 Parking.

In an RB-2 district, parking on private property shall be provided in connection with any permitted or conditional use as specified in Chapter 17.72 GHMC.

Where the parcel abuts a residential use or zone, parking and vehicle access areas shall be located between the fronting road and the structure(s), provided that where site characteristics or design preclude locating parking and access as described, that an additional 10 feet of buffering shall be required.

# B-2 District

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## Allowable Use and Standards

(as of 3 November 1995)