

ORDINANCE NO. 1219

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO GROWTH MANAGEMENT AND PLANNING, MAKING THE FOLLOWING AMENDMENTS TO THE CITY OF GIG HARBOR COMPREHENSIVE PLAN FOR THE 2011 ANNUAL CYCLE: ADDING POLICIES TO THE UTILITIES AND TRANSPORTATION ELEMENTS TO SUPPORT ELECTRIC VEHICLE INFRASTRUCTURE; EXPANDING GIG HARBOR'S MUNICIPAL URBAN GROWTH AREA TO INCLUDE THE ENTIRETY OF THE WATERS OF GIG HARBOR BAY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

WHEREAS, the Act requires the City to adopt a Comprehensive Plan; and

WHEREAS, the City adopted a revised GMA Comprehensive Plan as required by RCW 36.70A.130 (4) in December 2004; and

WHEREAS, the City is required to consider suggested changes to the Comprehensive Plan (RCW 36.70A.470); and

WHEREAS, except under circumstances not applicable here, the City may not amend the Comprehensive Plan more than once a year (RCW 36.70A.130); and

WHEREAS, the City is required to provide public notice and public hearing for any amendments to the Comprehensive Plan and the adoption of any elements thereto (RCW 36.70A.035, RCW 36.70A.130); and

WHEREAS, on March 14, 2011, the City Council evaluated the comprehensive plan amendment applications submitted for the 2011 annual cycle, held a public hearing on such applications, and forwarded four comprehensive plan amendment applications to the Planning Commission for further processing in the 2011 Comprehensive Plan annual cycle; and

WHEREAS, on March 25, 2011, the City of Gig Harbor, as the applicant of the four amendments, withdrew two applications for comprehensive plan applications related to capital facilities planning and transportation element updates; and

WHEREAS, on March 30, 2011, the City's SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the two remaining comprehensive plan amendment applications, pursuant to WAC 197-11-340(2), which was not appealed; and

WHEREAS, the Planning Director notified the Washington State Department of Commerce of the City's intent to amend the Comprehensive Plan and forwarded a copy of the proposed amendments on March 30, 2011 pursuant to RCW 36.70A.106; and

WHEREAS, the Planning Commission held a work study session on May 5, 2011 to discuss the two applications; and

WHEREAS, the Planning Commission held a public hearing on the Comprehensive Plan amendments on June 2, 2011; and

WHEREAS, after the public hearing on June 2, 2011, the Planning Commission voted to recommend approval of the two proposed amendments as documented in the Planning Commission's written recommendations signed by Planning Commission Chair, Harris Atkins, all dated June 2, 2011; and

WHEREAS, the Gig Harbor City Council had a public hearing and first reading of an Ordinance implementing the recommendations of the Planning Commission for the two applications and amending the Comprehensive Plan on June 11, 2011; and

WHEREAS, the Gig Harbor City Council had a second reading of an Ordinance implementing the recommendations of the Planning Commission for the two applications and amending the Comprehensive Plan on July 25, 2011;

Now, Therefore,

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

Section 1. Comprehensive Plan Text Amendments.

A. **Notice.** The City Clerk confirmed that public notice of the public hearings held by the City Council on the following applications was provided.

B. **Hearing Procedure.** The City Council's consideration of the comprehensive plan text amendments is a legislative act. The Appearance of Fairness doctrine does not apply.

C. **Testimony.** No members of the public testified at the public hearing.

D. **Criteria for Approval.** The process for Comprehensive Plan amendments (Chapter 19.09) states that the City Council shall consider the Planning Commission's recommendations and after considering the criteria found in GHMC 19.09.170 shall make written findings regarding each application's consistency or inconsistency with the criteria. The criteria found in GHMC 19.09.170 are as follows:

19.09.170 Criteria for approval.

A. The proposed amendment will further and be consistent with the goals, policies and objectives of the comprehensive plan; and

B. The proposed amendment is consistent with the Growth Management Act, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and

C. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect transportation facilities and other public facilities and services such as parks, police, fire, emergency medical services and governmental services; and

D. The proposed amendment advances the public interest; and

E. For text amendments which propose to increase density or intensity of permitted development and all land use map amendments, the following approval criteria also apply:

1. Adequate infrastructure, facilities and services are available to serve the proposed or potential development expected as a result of this amendment, according to one of the following provisions:

a. The city has adequate funds for needed infrastructure, facilities and services to support new development associated with the proposed amendments; or

b. The city's projected revenues are sufficient to fund needed infrastructure, facilities and services, and such infrastructure, facilities and services are included in the schedule of capital improvements in the city's capital facilities plan; or

c. Needed infrastructure, facilities and services will be funded by the developer under the terms of a development agreement associated with the comprehensive plan amendment; or

d. Adequate infrastructure, facilities and services are currently in place to serve expected development as a result of this comprehensive plan amendment based upon an assessment of land use assumptions; or

e. Land use assumptions have been reassessed, and required amendments to other sections of the comprehensive plan are being processed in conjunction with this amendment in order to ensure that adopted level of service standards will be met; and

2. For a land use map amendment, the subject parcels being redesignated are physically suitable for the allowed land uses in the designation being requested, including compatibility with existing and planned surrounding land uses; and

3. The proposed amendment will not create a demand to change land use designations of other properties, unless the change in land use designation for other properties is in the long-term interest of the community in general.

E. Applications. The City Council hereby enters the following findings and conclusions for each application:

1. COMP PL-11-0003 – Electric Vehicle Infrastructure Policies.

Summary: Adding the following policies to support the State-mandated requirement to allow battery charging stations in most of our zoning districts:

In the Transportation Element (Chapter 11): New Policy under Goal 11.5 Air Quality

11.5.3 Encourage and support the use of electric vehicles; provide a broad range of opportunities for vehicle recharge.

In the Utilities Element (Chapter 8): New Policy under Goal 8.2 Encourage the conservation of energy resources.

8.2.1.g Encourage utility conservation efforts and infrastructure that minimize demand for natural resources.

Findings:

- a) Goal 8.2 of the Comprehensive Plan calls for the City to *encourage the conservation of energy resources* and Goal 11.5 Air Quality calls for *implementing programs that help to meet and maintain clean air requirements*. The addition of the proposed policies to support electric vehicle infrastructure provides more specificity on how those goals could be accomplished.
- b) The Council finds that the proposed policies are consistent with state law, the Growth Management Act, Vision 2040 and the Pierce County Countywide Planning Policies as follows:
 - i. During the 2009 session the Washington State Legislature passed House Bill 1481 (HB 1481), an Act relating to electric vehicles. The Bill addressed electric vehicle infrastructure including the structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations. It required that the City must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas.
 - ii. The Environment Goal of the Growth Management Act is to *Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water* (RCW 36.70A.020(10)). The Planning Commission finds that supporting and encouraging electric vehicle infrastructure meets this goal.
 - iii. Vision 2040 calls for continued efforts to reduce pollutants from transportation activities, including through the use of cleaner fuels and vehicles and increasing alternatives to driving alone, as well as design and land use. (MPP-En-19)
 - iv. The adopted Countywide Planning Policies emphasize the prevention of air and water quality degradation. (Goal 5.8)
- c) The City Council finds that the proposed policies do not adversely affect the City's transportation facilities. The use of the City's roads will not increase by encouraging electric vehicles; instead, a larger variety of "green" vehicles will be supported.

- d) Given the need to provide opportunities for the use of alternative fuel vehicles which reduce emissions, the City Council finds that proposed policies advance the public interest.

Conclusion: After consideration of the materials in the file, staff presentation, the Planning Commission recommendation, the City's Comprehensive Plan, criteria for approval found in Chapter 19.09 GHMC, applicable law, and public testimony, the City Council hereby **approves** application PL-COMP-11-0003.

2. PL-COMP-11-0004 – Gig Harbor Bay UGA Expansion.

Summary: A comprehensive Plan map amendment to expand the UGA boundary to include the entirety of the waters of Gig Harbor Bay.

Findings:

- a) Goal 2.1.4.c of the Comprehensive Plan calls for the City to *at a minimum, review the urban growth area boundary every five years. As appropriate, make adjustments which account for projected population rate changes, adjustments in available service capacity, changes which reflect community desires or goals and which promote sound and reasonable land use development patterns. In reviewing revisions to the urban growth boundary, consideration should be given to the potential impacts on environmentally sensitive areas.* The City Council finds that the urban growth area boundary should be adjusted to reflect the City's desire to have law enforcement authority over the waters of the bay and allow for reasonable and logical future city limits for permitting purposes.
- b) The City Council finds that the proposed policies are consistent with the Growth Management Act and the Pierce County Countywide Planning Policies as follows:
- i. The Growth Management Act does not specifically speak to the regulation/jurisdiction of marine waters beyond incorporating by reference the Shoreline Management Act; however, there appears to be no language which would prohibit this amendment.
 - ii. Countywide planning policy on Urban Growth Areas 2.2.1 states that: "Any of the following shall be considered in determining the location of urban growth area boundaries: a. geographic, topographic, and manmade features" Given the configuration of the bay and narrow opening into Colvos Passage/Tacoma Narrows, Gig Harbor Bay is essentially a separate water body and geographically separate from Puget Sound as a whole.
- c) As the proposal will not expand residential or employment capacity in the UGA, no additional public facilities are expected to be needed. Therefore, the City Council finds that the proposed amendment will not adversely impact the City's ability to provide infrastructure. In regards to law enforcement for the proposed UGA expansion, the City's marine unit will patrol the eastern portion of the bay once the area is annexed. In addition, the City has already entered into an interlocal agreement with Pierce County granting the City of Gig

Harbor legal authority to address derelict boats and buoys in the unincorporated area of the harbor (PC ORD 2010-101; Interlocal approved by City Council 1/13/11).

- d) The City Council finds that the proposed map amendment to move the UGA boundary to just outside the entrance to the bay advances the public interest by 1. Creating a logical future city limit boundary, avoiding any “donut holes” with future annexations or dual jurisdiction permitting for property owners; and 2. Allowing the City to annex the waters of the bay without annexing uplands to gain police authority over marine vessels in the entire bay.

Conclusion: After consideration of the materials in the file, staff presentation, the Planning Commission recommendation, the City’s Comprehensive Plan, criteria for approval found in Chapter 19.09 GHMC, applicable law, and public testimony, the City Council hereby **approves** application PL-COMP-11-0004, as identified in Exhibit A attached to this Ordinance.

Section 2. Transmittal to State. The Planning Director is directed to forward a copy of this Ordinance, together with all of the exhibits, to the Washington State Commerce Department within ten days of adoption, pursuant to RCW 36.70A.106.

Section 3. Severability. If any portion of this Ordinance or its application to any person or circumstances is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the remainder of the Ordinance or the application of the remainder to other persons or circumstances.

Section 4. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 25th day of July, 2011.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

FILED WITH THE CITY CLERK: 07/06/11
PASSED BY THE CITY COUNCIL: 07/25/11
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