

**ORDINANCE NO. 1181**

**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 2009 ANNUAL CYCLE: ADDING A 3.69 ACRE PARCEL LOCATED AT THE SOUTHEAST CORNER OF WOLLOCHET DRIVE AND STATE ROUTE 16 TO THE CITY'S WATER SERVICE AREA (COMP 09-0001); REPEALING THE PARKS RECREATION AND OPEN SPACE ELEMENT (COMP 09-0002); AMENDING THE TRANSPORTATION ELEMENT TO UPDATE THE SHORT-RANGE AND LONG-RANGE TRANSPORTATION IMPROVEMENT PLANS AND ADD POLICIES RELATED TO VEHICULAR AND PEDESTRIAN ACCESS IN THE DOWNTOWN AREA (COMP 09-0003); AMENDING THE COMPREHENSIVE PLAN LAND USE MAP TO CHANGE THE LAND USE DESIGNATION FOR 15.53 ACRES OF PROPERTY LOCATED ALONG BURNHAM DRIVE AND 112<sup>TH</sup> STREET NW FROM EMPLOYMENT CENTER (EC) TO COMMERCIAL/BUSINESS (C/B) (COMP 09-0004); ADOPTING A NEW STORMWATER COMPREHENSIVE PLAN (COMP 09-0007); ADOPTING A NEW WASTEWATER COMPREHENSIVE PLAN (COMP 09-0008); ADOPTING A NEW WATER SYSTEM PLAN (COMP 09-0009); AMENDING THE CAPITAL FACILITIES ELEMENT TO UPDATE THE SIX-YEAR IMPROVEMENT PROJECT LISTS (COMP 09-0010); AMENDING THE UTILITIES ELEMENT TO BE CONSISTENT WITH THE NEW WATER SYSTEM PLAN (COMP 09-0011); ADDING TWO PARCELS, 4.16 ACRES, LOCATED AT THE SOUTHEAST CORNER OF HUNT STREET AND STATE ROUTE 16 TO THE CITY'S WATER SERVICE AREA (COMP 09-0013) .**

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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 May 11, 2009, the City Council evaluated the comprehensive plan amendment applications submitted for the 2009 annual cycle, and held a public hearing on such applications; and

WHEREAS, on May 26, 2009, the City Council forwarded twelve comprehensive plan amendment applications to the Planning Commission for further processing in the 2009 Comprehensive Plan annual cycle; and

WHEREAS, on July 16, 2009, the City's SEPA Responsible Official issued a Determination of Non-Significance (DNS) for 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 July 16, 2009 pursuant to RCW 36.70A.106; and

WHEREAS, the Planning Commission held work study sessions on to discuss the applications on June, 18, 2009, July 16, 2009, July 30, 2009, August 6, 2009, August 20, 2009, September 3, 2009, September 17, 2009, September 24, 2009 and October 21, 2009; and

WHEREAS, the Planning Commission held public hearings on comprehensive plan amendments on July 16, 2009, July 30, 2009 and September 17, 2009; and

WHEREAS, on October 21, 2009 the Planning Commission voted to recommend approval of all twelve proposed amendments as documented in the Planning Commission's written recommendations signed by Planning Commission Chair, Harris Atkins, all dated October 21, 2009; and

WHEREAS, on November 9, 2009, the Gig Harbor City Council held a public hearing on all twelve proposed amendments to the Gig Harbor Comprehensive Plan for the 2009 annual review cycle; and

WHEREAS, the Gig Harbor City Council had a first reading of an Ordinance amending the Comprehensive Plan on November 23, 2009; and

WHEREAS, the Gig Harbor City Council had a second reading of an Ordinance amending the Comprehensive Plan on December 14, 2009;

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.** The following persons testified on the applications at the November 9, 2009 public hearing:

(COMP 09-0001) Michael Desmarreau, Paul Cyr; (COMP 09-0004) Walter Smith, Carl Halsan; (COMP 09-0005) Kathryn Jerkovich, Lee Murray, Patricia Manning, Mark Hoppen; (COMP 09-0009) Jim Pasin; (COMP 09-0012) Carl Halsan, Danielle Ittner, John McMillan, Kurt Salmon, Mark Hoppen, Bill Fogarty, Cliff Petersen, William Lynn; (COMP 09-0013) Paul Cyr.

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 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 meets concurrency requirements for transportation as specified in Chapter 19.10 GHMC;

B. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect adopted levels of service standards for other public facilities and services such as parks, police, fire, emergency medical services and governmental services;

C. The proposed amendments will not result in overall residential capacities in the city or UGA that either exceed or fall below the projected need over the 20-year planning horizon; nor will the amendments result in densities that do not achieve development of at least four units per net acre of residentially designated land;

D. 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:

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

2. 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

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

4. 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

5. 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.

E. The proposed amendment is consistent with the goals, policies and objectives of the comprehensive plan;

F. The proposed amendment will not result in probable significant adverse impacts to the transportation network, capital facilities, utilities, parks, and environmental features which cannot be mitigated and will not place uncompensated burdens upon existing or planned services;

G. In the case of an amendment to the comprehensive plan land use map, that 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 the zoning district locational criteria contained within the comprehensive plan and zoning code;

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

I. 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

J. The proposed effect of approval of any individual amendment will not have a cumulative adverse effect on the planning area.

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

**1. COMP 09-0001 – Wollochet Water System Service Area Amendment**

Summary: A water system service area amendment from Stroh's Water Company's service area to the City of Gig Harbor water service area for a 3.69 acre, vacant parcel located at the southeast corner of Wollochet Drive and SR 16.

Findings:

a) The amendment will not adversely impact the city's ability to provide water service. The City currently has water capacity to reserve for future development. The development of the subject parcel would require an

estimated 12,560 to 18,840 gallons per day of water and the City has over 200,000 gallons per day of water available for reservation. The city is also actively pursuing additional water rights from the Department of Ecology.

- b) Adequate water service infrastructure is currently in place to serve the parcel with a minor extension of a water main. The City of Gig Harbor water service area exists adjacent to the property along Wollochet Drive. A City water main exists at the intersection of Wollochet Drive and Wagner Way approximately 350 feet south of the subject site. The developer would be required to extend the water main approximately 350 feet to service the site.
- c) The water system plan allows limited expansion of the city's water service area. Comprehensive Plan Policy 2.1.3 Serviceable Areas states that urban uses should be allocated to lands which can be provided roads, sewer, water, storm drainage and other basic urban utilities and transportation facilities. Given the location of transportation services and water mains in relation to the subject property, urban development is appropriate. Redevelopment of this vacant property will be a value to the community
- d) The water service amendment will not place uncompensated burdens on the existing water purveyor and customers as the developer will pay for the water main extensions and connection fees. With the proposed conditions, any fees incurred by the city for changing the water service area will be reimbursed by the applicant.
- e) The City Council finds that the proposed amendment is consistent with the Growth Management Act, the countywide planning policies and multi-county planning policies.
- f) The City Council finds that the approval of this amendment will not have a cumulative adverse effect on the City. The City has a finite number of water ERUs to reserve to customers in the current service area, with over 1,000 water ERUs available.

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 COMP 09-0001, as identified in Exhibit A attached to this Ordinance with the following **conditions**:

- 1) The applicant shall provide full cost reimbursement plus a 5% administration fee to the City of Gig Harbor for all consultant and legal expenses paid by the City of Gig Harbor for the revision to the City's Water System Plan and/or the Pierce County Coordinated Water System Plan related to the water service area amendment; and
- 2) The applicant shall provide full cost reimbursement plus a 5% administration fee to the City of Gig Harbor for all fees paid to the State of Washington and Pierce County by the City of Gig Harbor for the revision to the City's Water System Plan and/or the Pierce County Coordinated Water System Plan related to the water service area amendment.

**2. Parks, Transportation, Utility and Capital Facility Amendments.** The Council made findings and conclusions on the following seven (7) amendments together:

Summary:

a) **COMP 09-0002: Parks, Recreation and Open Space Element**

An amendment to repeal the existing PROS element, as identified in Exhibit B attached to this Ordinance

b) **COMP 09-0003: Transportation Element**

Amendments to create a general short-range and long-range transportation improvement plans that will serve as a basis for the 6-year Transportation Improvement Plan (TIP) adopted each year and add policies related to vehicular and pedestrian access in the downtown area, as identified in Exhibit C attached to this Ordinance

c) **COMP 09-0007: Stormwater Comprehensive Plan**

Adoption of a new Stormwater Comprehensive Plan, as identified in Exhibit D attached to this Ordinance

d) **COMP 09-0008: Wastewater Comprehensive Plan**

Adoption of a new Wastewater Comprehensive Plan, as identified in Exhibit E attached to this Ordinance

e) **COMP 09-0009: Water System Plan**

Adoption of a new Water System Plan for the City's water service area, as identified in Exhibit F attached to this Ordinance

f) **COMP 09-0010: Capital Facilities Element**

Amendments to update the stormwater, wastewater, water system, parks, recreation and open space, and transportation improvement projects included in the Capital Facilities Plan, as identified in Exhibit G attached to this Ordinance

g) **COMP 09-0011: Utilities Element**

An amendment to update the Utilities Element to be consistent with the new Water System Plan, as identified in Exhibit H attached to this Ordinance

Findings:

a) The amendments will improve the City's ability to provide sewer, water and other public facilities and services through updated funding mechanisms and new comprehensive utility plans based on existing conditions.

b) The amendments will update the transportation, sewer, park, stormwater, wastewater, water, parks and open space and capital facilities plan so that the City can provide necessary infrastructure to serve the development projected by the Comprehensive Plan.

c) The City's Comprehensive Plan seeks to keep pace with the population and commercial growth through the funding of capital improvements that manage and allow for the projected growth. The amendments will allow the city to better address the planning area's transportation, sewer, park, stormwater, wastewater, water and open space needs through adequate capital facility planning and funding.

- d) The amendments are necessary so as not to create significant adverse impacts to the city's infrastructure. Updating the transportation, sewer, park, stormwater, wastewater, water, parks and open space and the capital facilities plan allows the City to plan for and provide the necessary infrastructure to serve the development projected by the Comprehensive Plan.
- e) The City Council finds that the proposed amendment is consistent with the Growth Management Act, the countywide planning policies and multi-county planning policies.
- f) The approval of the amendments will not have a cumulative adverse effect on the City.

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 **approve** applications COMP 09-0002, COMP 09-0003, COMP 09-0007, COMP 09-0008, COMP 09-0009, COMP 09-0010 and COMP 09-0011, as identified in Exhibits B, C, D, E, F, G, and H respectively attached to this Ordinance:

### **3. COMP 09-0004 – Sunrise Enterprise Land Use Map Amendment**

Summary: A land use designation change from Employment Center (EC) to Commercial Business (C/B) of 15.53 acres located along Burnham Drive NW and 112<sup>th</sup> Street NW, currently occupied by a contractor's yard.

Findings:

- a) The city performed a traffic capacity evaluation for the proposed land use designation change. Given the variety of uses allowed in both designations (EC and C/B), it is not possible to determine if an actual increase in trips will occur with the amendment until the specific use for the property is defined. Some uses allowed in the C/B designation will exceed the trip generation of some uses in the EC designation and vice versa. Given this variability, a change from EC designation to C/B designation is not considered an increase in land use intensity. In addition, the city's traffic modeling assumed this property was in the County and regulated by County zoning, given that the property was annexed to the City in March 2009. The County's zoning for this site prior to annexation was Community Commercial which is equivalent to the city's C/B designation.
- b) The draft traffic impact analysis provided by the applicant indicated that more trips may be generated as a result of the redesignation. The city will fully evaluate the project once a project permit application is submitted committing to a particular use. If through that permitting process, deficiencies in the City's transportation system will occur, mitigation will be required by the applicant. The city does not believe the change in land use will result in an adverse impact that cannot be mitigated.

- c) After an analysis of the anticipated sewer and service impacts under the existing designation and the proposed designation, no significant increase in services or infrastructure needs were documented and; therefore, no adverse impacts to the city's infrastructure. The subject property is not serviced by city water.
- d) Goal 6.2.2 of the Economic Development Element encourages increased economic opportunities through the redevelopment of vacant properties and revitalizing older business districts within the city. The amendment will further this goal given that the subject property is under-utilized with outdated buildings.
- e) Prior to annexation of this area on March 23, 2009, the County land use designation and zoning for this property was Community Commercial (CC). The CC zoning is most similar to the city's B-2 zoning. The County selected this designation and zoning as part of the Gig Harbor Peninsula Community sub-area plan adopted in 2002. The County and surrounding property owners have been contemplating a commercial designation and zoning of this property for seven years. This amendment will retain the commercial designation which was deemed compatible with the surrounding land uses and physically suitable for the property in 2002.
- f) The Commercial/Business land use designation policy states that "*commercial areas which border residential designations or uses should use available natural features as boundaries.*" (GHCP 2.2.3d) Residentially designated and zoned land exists both north and south of the proposal. The applicant has indicated that the mining permit for the current use of the subject property includes a 50 foot buffer to the residential use to the north. In addition along the north boundary, steep slopes rise up to the adjacent residential property. To the south, 112<sup>th</sup> Street NW separates the subject property from the residential zoning. The City Council finds that the existing road separation to the south and the topography in conjunction with a 40-foot zone transition buffer required by the Design Manual to the north is appropriate buffering from the residential zones.
- g) The City Council finds that the amendment will not create a demand for land use designation changes in the surrounding areas. A right-of-way bounds the subject property on the south. The property to the east has commercial designations and uses. To the west is a gravel pit under the same ownership as the subject property. They have indicated that the gravel pit will remain in the near future. To the north, a property owner has indicated they may request a comprehensive plan amendment to redesignate his property from residential to commercial. However, the property owner stated he had considered such amendment at the existing EC designation; the C/B designation request does not change that consideration.
- h) The City Council finds that the proposed amendment is consistent with the Growth Management Act, the countywide planning policies and multi-county planning policies.
- i) The approval of the amendment will not have a cumulative adverse effect on the City.

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 COMP 09-0004, as identified in Exhibit I attached to this Ordinance.

**4. Section 1.E.4 intentionally omitted.**

**5. Section 1.E.5 intentionally omitted.**

**6. COMP 09-0013 – Stroh's Water System Service Area Amendment**

Summary: A water system service area amendment from Stroh's Water Company's service area to the City of Gig Harbor water service area for two parcels, totaling 4.16 acres, located south of Hunt Street just east of SR16 and the existing Cushman Trail, currently occupied by Stroh's Feed & Garden Supplies and United Rentals.

Findings:

- a) The water system plan allows limited expansion of the city's water service area. Goal 6.2.2 of the Economic Development Element encourages increased economic opportunities through the redevelopment of vacant properties and revitalizing older business districts within the city. Providing city fire flow to an underdeveloped commercial site will further this goal by allowing redevelopment without Stroh's Water Company incurring significant infrastructure costs.
- b) Providing fire flow to the subject parcel will not adversely impact the city's ability to provide water service. A 12-inch City water main exists within Hunt Street along the north property line. A basic hook-up to that main would be required to provide water service. Given that the existing development has domestic water rights allocated to it, any redevelopment of the parcel should yield the transfer of those rights to the City provided the City takes over both domestic and fire flow water service. If only fire flow is provided, the city has adequate pressure to service the site and no additional water rights are needed. The water service amendment will not place uncompensated burdens on the existing water purveyor and customers as the developer will pay for connecting to the city's water main and associated fees. Any fees incurred by the city for changing the water service area will be reimbursed by the applicant.
- c) The City Council finds that the proposed amendment is consistent with the Growth Management Act, the countywide planning policies and multi-county planning policies.
- d) The City Council finds that the approval of this amendment will not have a cumulative adverse effect. Under condition 3a, the City does not reserve any additional water rights. Under condition 3b, the city allows a connection for fire flow only and an underdeveloped parcel is allowed to redevelop.

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 COMP 09-0013, as identified in Exhibit L attached to this Ordinance with the following **conditions**:

- 1) The applicant shall provide full cost reimbursement plus a 5% administration fee to the City of Gig Harbor for all consultant and legal expenses paid by the City of Gig Harbor for the revision to the City's Water System Plan and/or the Pierce County Coordinated Water System Plan related to the water service area amendment.
- 2) The applicant shall provide full cost reimbursement plus a 5% administration fee to the City of Gig Harbor for all fees paid to the State of Washington and Pierce County by the City of Gig Harbor for the revision to the City's Water System Plan and/or the Pierce County Coordinated Water System Plan related to the water service area amendment.
- 3a. IF THE CITY SUPPLIES BOTH DOMESTIC AND FIRE FLOW TO THE SITE: The applicant shall request the Stroh's Water System assign to the City of Gig Harbor from its existing water rights, the quantity required to serve the proposed development consistent with state law, including Washington State Department of Health water system planning statutes and regulations. Should the Stroh's Water System decline the requested assignment, or advise the City that the assignment cannot occur in a manner consistent with law, the applicant is advised that City of Gig Harbor has no duty to serve the subject property and reserves the right not to provide water service. The applicant's request for assignment and Stroh's Water System response shall be documented in writing and provided to the City of Gig Harbor. The applicant shall provide full cost reimbursement plus a 5% administration fee to the City of Gig Harbor for all consultant and legal expenses necessary for assignment of water rights.

OR

- 3b. IF THE CITY SUPPLIES ONLY FIRE FLOW SUPPLY TO THE SITE: The applicant shall pay the City's water system connection charge in effect at the time of building permit issuance based on the size of each water main serving the fire sprinkler system for the building(s).

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 14th day of December, 2009.

CITY OF GIG HARBOR

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Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

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Molly M. Towslee, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

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Angela S. Belbeck

FILED WITH THE CITY CLERK: 11/18/09  
PASSED BY THE CITY COUNCIL: 12/14/09  
PUBLISHED: 12/23/09  
EFFECTIVE DATE: 12/28/09  
ORDINANCE NO. 1181