

## **ORDINANCE NO. 1363**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, PROVIDING FOR THE ACQUISITION, CONDEMNATION, APPROPRIATION, AND TAKING OF A FEE SIMPLE INTEREST AND PERMANENT SLOPE EASEMENTS IN CERTAIN REAL PROPERTY FRONTING ON BURNHAM DRIVE NW IN THE VICINITY OF 97TH STREET NW AND HARBOR HILL DRIVE, FOR THE PUBLIC USE AND PURPOSE OF CONSTRUCTING, OPERATING, AND MAINTAINING A STORMWATER POND OR PONDS AND THE ROADWAY IMPROVEMENTS, UTILITIES, AND ASSOCIATED FEATURES REQUIRED BY THE CITY'S HARBOR HILL DRIVE EXTENSION PROJECT; PROVIDING THAT THE ENTIRE COST THEREOF SHALL BE PAID FROM AVAILABLE FUNDS; AND DIRECTING THE CITY ATTORNEY'S OFFICE TO FILE AND PROSECUTE THE APPROPRIATE LEGAL PROCEEDINGS FOR SAID CONDEMNATION.**

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WHEREAS, the Harbor Hill Drive Extension is a high priority project under the Transportation Element of the Gig Harbor Comprehensive Plan; and

WHEREAS, in order to construct the Harbor Hill Drive Extension as planned, certain fee and easement interests are required in property fronting on Burnham Drive NW in the vicinity of 97th Street NW and Harbor Hill Drive, Pierce County Tax Parcel No. 0222313024; and

WHEREAS, City Public Works staff and City Attorney have been able to secure a right-of-entry from the owner of the affected property in order to allow construction of the Harbor Hill Drive Extension to begin, but have been unable to successfully negotiate a voluntary purchase of the necessary property rights to date; and

WHEREAS, pursuant to RCW 8.25.290, the owners of affected property were notified by certified mail of the time and date at which the Gig Harbor City Council would consider taking final action on this ordinance and notice was also published in the City's

official newspaper and the newspaper with the largest circulation in the City of Gig Harbor; and

WHEREAS, after hearing the recommendation of the Public Works Director and City Engineer, the Gig Harbor City Council has determined to authorize condemnation of the required property interests;

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

Section 1. Public Use and Purpose - Authority to Condemn. The Gig Harbor City Council hereby declares that the public health, safety, and welfare demand that the City acquire a fee interest and permanent slope easements in certain real property fronting on Burnham Drive NW in the vicinity of 97th Street NW and Harbor Hill Drive, Pierce County Tax Parcel No. 0222313024. The entirety of the property from which the fee and easement interests are to be taken is legally described on Exhibit A attached hereto and the fee interest area and permanent slope easements are legally described on Exhibits B - G hereto, all of which exhibits are incorporated herein by this reference as if set forth in full. The fee and easement interests are required to serve a public use and purpose, namely, the construction, reconstruction, installation, maintenance, and repair of the City of Gig Harbor's Harbor Hill Drive Extension, including a stormwater pond or ponds, roadway improvements, utilities, and associated features. The City of Gig Harbor is authorized to condemn property and property rights for public roadway, drainage, and utility purposes under RCW 8.12.030.

Section 2. Finding and Declaration of Necessity. The Gig Harbor City Council hereby finds and declares that the fee interest and permanent slope easements

described on Exhibits B - G are necessary for the public uses and purposes described in Section 1 of this ordinance.

Section 3.    Condemnation. The fee interest and permanent slope easements legally described on Exhibits B - G are hereby condemned, appropriated, taken, and damaged for the purpose of constructing, reconstructing, installing, maintaining, and repairing the improvements described in Section 1 of this ordinance, in accord with City of Gig Harbor standards. Condemnation of the fee interest and permanent slope easements is subject to the making or payment of just compensation to the owners and possessors of the property described on Exhibit A in the manner prescribed by law.

Section 4.    Authority of City Attorney. The City Attorney is hereby authorized and directed to begin and prosecute the proceedings provided by law to condemn and appropriate the easement interests necessary to carry out the provisions of this ordinance.

Section 5.    Source of Funds. The entire cost of the property acquisition authorized by this ordinance, including all costs and expenses of condemnation proceedings, shall be paid from such available funds as may be appropriate under the circumstances.

Section 6.    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 7.    Effective Date. This ordinance shall become effective five (5) days after passage publication of an approved summary thereof consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this  
8<sup>th</sup> day of May, 2017.

CITY OF GIG HARBOR

  
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Mayor Jill Guernsey

ATTEST/AUTHENTICATED:

  
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Shawna Wise, Assistant City Clerk

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

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

FILED WITH THE CITY CLERK: 5/3/17  
PASSED BY THE CITY COUNCIL: 5/8/17  
PUBLISHED: 5/11/17  
EFFECTIVE DATE: 5/16/17  
ORDINANCE NO:1363