

## RESOLUTION NO. 936

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, PROVIDING HARBOR HILL LLC AND OPG PROPERTIES LLC AN OPPORTUNITY TO PROVIDE EXPRESS CONSENT TO APPLICATION OF ORDINANCE NO. 1244 ALLOWING PRIMARY AND SECONDARY SCHOOLS IN THE PLANNED COMMUNITY DEVELOPMENT BUSINESS PARK ZONING DISTRICT (PCD-BP) AS AUTHORIZED UNDER SECTION 7 OF THE HARBOR HILL DEVELOPMENT AGREEMENT.**

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WHEREAS, the City of Gig Harbor and Harbor Hill LLC entered into that certain Development Agreement for the Harbor Hill Development dated November 9, 2010 for certain property in the Gig Harbor North area (the "Property"), and recorded at Pierce County Auditor's file No. 201011160780, as rerecorded at Auditor's file No. 201011241249; as supplemented by that certain Joinder Agreement dated November 22, 2010 and recorded at Pierce County Auditor's file No. 201012020196, joining Olympic Properties Group LLC as a party to the Development Agreement; and as amended by that certain Amendment No. 1 to the Development Agreement dated November 26, 2012 and recorded at Pierce County Auditor's file No. 201212040216; and

WHEREAS, section 8 of the Development Agreement provides, in part, that the permitted uses for development of the subject property include the "Existing Land Use Regulations;" and

WHEREAS, section 3 of the Development Agreement defines "Existing Land Use Regulations," in part, as "ordinances adopted by the City Council of Gig Harbor in effect on the Effective Date, including the adopting ordinances that govern the permitted uses of the land,...."; and

WHEREAS, section 7 of the Development Agreement provides, in part, that Developer is vested to the rights as set forth in the Development Agreement, and that with limited exceptions not applicable here, such rights may not be modified by the City except as expressly consented thereto by the Developer; and

WHEREAS, Peninsula School District notified the City that a new elementary school should be built in the Gig Harbor North area, and the PCD-BP zoning district is most suitable for school district needs; and

WHEREAS, by way of Ordinance No. 1244 the City of Gig Harbor amended its land use matrix to allow secondary and primary schools outright in the PCD-BP zoning district, in which a portion of the Property lies; and

WHEREAS, the City desires to offer the Developer the opportunity to consent to the application of the new zoning regulations set forth in Ordinance No. 1244 to its


Property in the PCD-BP zoning district, and the Developer has indicated its intent to provide such consent by written notice after passage of this Resolution;

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

The City Council of the City of Gig Harbor hereby offers Harbor Hill LLC and OPG Properties LLC the opportunity to consent to application of Ordinance No. 1244 allowing primary and secondary school uses in the PCD-BP zoning district to its Property subject to the above Development Agreement and in the PCD-BP zoning district, as authorized under section 7 of the Development Agreement. Such application shall be effective upon receipt of written consent by Harbor Hill LLC and OPG Properties LLC, executed before a notary public.

RESOLVED this 23<sup>rd</sup> day of September, 2013.

APPROVED:

  
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Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

  
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Molly Towselee, City Clerk

FILED WITH THE CITY CLERK: 09/18/13  
PASSED BY THE CITY COUNCIL: 09/23/13  
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