

**ORDINANCE NO. 5240**

**AN ORDINANCE** of the City Council of the City of Bremerton, Washington, establishing a planned action for the Gorst Urban Growth Area pursuant to the State Environmental Policy Act

WHEREAS, the State Environmental Policy Act (SEPA) and implementing rules provide for the integration of environmental review with land use planning and project review through designation of “Planned Actions” by jurisdictions planning under the Growth Management Act (GMA), and

WHEREAS, the City has adopted a Comprehensive Plan complying with the GMA, and

WHEREAS, to guide Gorst’s growth and redevelopment, the City has engaged in extensive watershed characterization and subarea planning for Gorst and have adopted amendments to their Comprehensive Plan including the Gorst Subarea Plan, and

WHEREAS, the City has received a grant from the US Environmental Protection Agency’s Watershed Management Assistance Program to develop a Comprehensive Watershed Plan for sustainable development and restoration of the Gorst Creek Watershed, and also received support from the participation of Gorst property owners, regional stakeholders, and government agencies including Kitsap County, and

WHEREAS, the City approved a planned action ordinance (Ordinance No 5189) for part of the Gorst Creek Watershed for the South Kitsap Industrial Area, which was separately approved for a planned action in 2012, and

WHEREAS, the City desires to designate a separate Planned Action for the full Gorst Urban Growth Area (UGA) which is a portion of the Gorst Creek Watershed, and

WHEREAS, designation of a Planned Action expedites the permitting process for subsequent, implementing projects whose impacts have been previously addressed in a Planned Action environmental impact statement (EIS), and thereby encourages desired growth and economic development, and

WHEREAS, the Gorst Planned Action EIS identifies impacts and mitigation measures associated with planned development in the Gorst UGA, and

WHEREAS, the City has adopted development regulations and ordinances which will help protect the environment, and is adopting regulations specific to the Gorst UGA which will guide the allocation, form and quality of desired development, and

WHEREAS, the City’s SEPA Rules, set forth in BMC 20.04.205 provide for Planned Actions within the City, and

WHEREAS, the City as lead agency and County as a project partner provided public comment opportunities through an EIS scoping period in October and November 2012, and for the Gorst Subarea Plan and Draft Planned Action EIS during June and July 2013, and held public meetings and hearings as part of a coordinated Gorst public participation program throughout 2013, and

WHEREAS, the City provided legal notice of a community meeting on October 4, 2013 by emailing to all affected federally recognized tribal governments and agencies with jurisdiction over the future development anticipated for the planned action, in compliance with RCW 43 21C 440, and

WHEREAS, the City held a community meeting on October 15, 2013 in compliance with RCW 43 21C 440, and

WHEREAS, on December 4, 2013 the City provided notification of a public hearing to be held on December 18, 2013 to all parties of record and all affected federally recognized tribal governments and agencies with jurisdiction over the future development for the Gorst Subarea Plan, and

WHEREAS, the City Council held a public hearing on December 18, 2013, considered public comment and approved the Gorst Subarea Plan and functioning plans as Ordinance 5237, and

WHEREAS, on February 3, 2014 the City provided legal notice in the Kitsap Sun of a public hearing to be held on February 19, 2014 for the planned action, and

WHEREAS, on February 3, 2014 the City provided notification of a public hearing to be held on February 19, 2014 to all parties of record and all affected federally recognized tribal governments and agencies with jurisdiction over the future development anticipated for the planned action

WHEREAS, the City Council held a public hearing on February 19, 2014 and considered public comment, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BREMERTON, WASHINGTON,  
DOES HEREBY ORDAIN AS FOLLOWS

**SECTION 1. Recitals.** The recitals set forth in this ordinance are hereby incorporated as if fully set forth herein

**SECTION 2. Purpose.** The City Council declares that the purpose of this ordinance is to.

A Combine environmental analysis, land use plans, development regulations, City codes and ordinances together with the mitigation measures in the Gorst Planned Action EIS to mitigate environmental impacts and process planned action development applications in the Planned Action Area,

B Designate the full Gorst UGA as a Planned Action Area for purposes of environmental review and permitting of subsequent, implementing projects pursuant to SEPA, RCW 43 21C 440,

C Determine that the EIS prepared for the Gorst Subarea Plan meets the requirements of a Planned Action EIS pursuant to SEPA,

D Establish criteria and procedures, consistent with state law, that will determine whether subsequent projects within the Planned Action Area qualify as Planned Actions,

E Provide the public with information about Planned Actions and how the City will process implementing projects within the Planned Action Area,

F Streamline and expedite the land use permit review process by relying on the EIS completed for the Planned Action, and

G Apply the City's development regulations together with the mitigation measures described in the EIS and this Ordinance to address the impacts of future development contemplated by this Ordinance

**SECTION 3. Findings.** The City Council finds as follows

A The City is subject to the requirements of the GMA (RCW 36 70A), and is applying the Planned Action to a UGA [Urban Growth Area], and

B The City has adopted a Comprehensive Plan complying with the GMA, and is amending the Comprehensive Plan to incorporate a subarea element specific to the Gorst UGA, and

C The City is adopting development regulations concurrent with the Gorst Subarea Plan to implement said Plan, including this ordinance, and

D An EIS has been prepared for the Planned Action Area, and the City Council finds that the EIS adequately identifies and addresses the probable significant environmental impacts associated with the type and amount of development planned to occur in the designated Planned Action Area, and

E The mitigation measures identified in the Gorst Planned Action EIS and attached to this ordinance as **Exhibit B**, incorporated herein by reference, together with adopted City development regulations, will adequately mitigate significant impacts from development within the Planned Action Area, and

F The Gorst Subarea Plan and Planned Action EIS identify the location, type and amount of development that is contemplated by the Planned Action, and

G Future projects that are implemented consistent with the Planned Action will protect the environment, benefit the public and enhance economic development, and

H The City and County provided several opportunities for meaningful public involvement in the Gorst Subarea Plan and Planned Action EIS, including a community meeting prior to the publication of notice for the planned action ordinance, have considered all comments received, and, as appropriate, have modified the proposal or mitigation measures in response to comments,

I Essential public facilities defined in RCW 47 06 140 are excluded from the Planned Action and not eligible for review or permitting as Planned Actions unless they are accessory to or part of a project that otherwise qualifies as a planned action, and

J The Planned Action applies to a defined area that is smaller than the overall City boundaries and smaller than overall County designated UGAs, and

K. Public services and facilities are adequate to serve the proposed Planned Action, with implementation of Subarea Plan and mitigation measures identified in the EIS

**SECTION 4. Procedures and Criteria for Evaluating and Determining Planned Action Projects within Planned Action Area**

**A Planned Action Area.** This Planned Action designation shall apply to the area shown in **Exhibit A**, incorporated herein by reference

**B Environmental Document** A Planned Action determination for a site-specific project application within the Planned Action Area shall be based on the environmental analysis contained in the Draft EIS issued by the City on June 10, 2013 and the Final EIS published on October 8, 2013. The Draft and Final EIS documents shall comprise the Planned Action EIS for the Planned Action Area. The mitigation measures contained in **Exhibit B**, attached to this Ordinance and incorporated herein by reference, are based upon the findings of the Planned Action EIS and shall, along with adopted City regulations, provide the framework that the City will use to apply appropriate conditions on qualifying Planned Action projects within the Planned Action Area.

**C Planned Action Designated** Land uses and activities described in the Planned Action EIS, subject to the thresholds described in Subsection 4(D) of this Ordinance below (“Planned Action Qualifications”) and the mitigation measures contained in **Exhibit B**, are designated Planned Actions or Planned Action Projects pursuant to RCW 43 21C 440. A development application for a site-specific Planned Action project located within Planned Action Area shall be designated a Planned Action if it completes the modified SEPA Checklist in **Exhibit B** and meets the criteria set forth in Subsection 4(D) of this Ordinance and all other applicable laws, codes, development regulations and standards of the City are met.

**D Planned Action Qualifications** The following thresholds shall be used to determine if a site-specific development proposed within the Planned Action Area was contemplated as a Planned Action and has had its environmental impacts evaluated in the Planned Action EIS:

**(1) Qualifying Land Uses**

**(a) Planned Action Categories** The following general categories/types of land uses are defined in the Gorst Subarea Plan and are considered Planned Actions:

**i Mixed Use.** Retail, hotel, office, services, and attached single family, cottages, townhomes, and apartments in horizontal or vertical patterns.

**ii Single Family Subdivision and Multifamily Residential.** detached single family, attached single family, cottages, townhomes, apartments, and accessory dwelling units, in clustered and non-clustered patterns.

**iii Commercial.** Regional, community, and neighborhood commercial uses including retail, hotel, office, and services.

**iv Open Space, Recreation.** Active and passive parks, recreation, and open space facilities. Secondary uses include accessory commercial such as concessions, recreation equipment rental, and other small-scale facilities.

**(b) Planned Action Uses** A land use shall be considered a Planned Action Land Use when:

**i** it is within the Planned Action Area as shown in **Exhibit A**,

**ii** it is within the one or more of the land use categories described in subsection 1(a) above, and

**iii** it is listed in development regulations applicable to the zoning classifications applied to properties within the Planned Action Area.

A Planned Action may be a single Planned Action use or a combination of Planned Action uses together in a mixed use development. Planned Action uses include accessory uses.

(c) **Public Services** The following public services, infrastructure and utilities are also Planned Actions Multi-modal transportation improvements, water and sewer improvements, stormwater improvements, fish passage barrier removals, and habitat restoration proposals considered in capital plans associated with the Gorst Subarea Plan

1 Applicants for public services, infrastructure and utilities projects shall demonstrate consistency with the Gorst Creek Watershed Framework Plan, Gorst Subarea Plan, Bremerton Shoreline Master Program, and Bremerton Critical Areas Ordinance

11 Applicants for fish passage barrier removals and habitat restoration proposals shall demonstrate consultation with appropriate federally recognized tribes

111 Essential public facilities defined in RCW 47.06.140 are excluded from the Planned Action and not eligible for review or permitting as Planned Actions unless they are accessory to or part of a project that otherwise qualifies as a planned action.

(2) Development Thresholds

(a) **Land Use** The following amounts of various new land uses are contemplated by the Planned Action

<u>Feature</u>	<u>Planned Action Area</u>
Residential Dwellings (units)	585
Commercial Square Feet	156,639

(b) Shifting development amounts between land uses in Subsection 4(D)(2)(a) of this ordinance may be permitted when the total build-out is less than the aggregate amount of development reviewed in the EIS, the traffic trips for the preferred alternative are not exceeded, and, the development impacts identified in the Planned Action EIS and are mitigated consistent with **Exhibit B**

(c) Further environmental review may be required pursuant to WAC 197-11-172, if any individual Planned Action or combination of Planned Actions exceed the development thresholds specified in this Ordinance and/or alter the assumptions and analysis in the Planned Action EIS

(3) Transportation Thresholds

(a) **Trip Ranges & Thresholds.** The number of daily vehicle and peak hour trips anticipated in the Planned Action Area and reviewed in the EIS is as follows

**Gorst Area Travel Statistics**

<u>Category</u>	<u>Daily Trips</u>	<u>Peak Hour Trips</u>
Preferred Alternative – 2010-2035 Trips	5,958	572

Note Based on Gorst area traffic analysis zones and the change in trips from 2010-2035 Includes the No Action trips (4,114 daily and 395 peak hour), and the net increment of trips attributable to the Preferred Alternative (1,844 daily and 177 peak hour) beyond the No Action trips

Source Kitsap County 2013

(b) **Concurrency** All Planned Actions shall meet the transportation concurrency requirements and the level of service (LOS) thresholds established in the Bremerton Comprehensive Plan and Chapter 11.12 BMC Transportation Development Code

(c) **Traffic Impact and Mitigation**

1 Applicants shall prepare traffic impact analysis consistent with BMC 11.12.060 Traffic Impact Analysis Reports and the following

A Traffic impact analysis reports are required for proposed development projects when the City Engineer or his/her designee has reason to believe that the

impact on the City's existing or planned future transportation facilities will be significant "Significant," for this purpose, means generating, on any portion of the City transportation system, in excess of two percent (2%) more traffic above the existing base line at either the peak period or for the average day where the base line shall be determined by the City Engineer or his/her designee. The City Engineer or his/her designee may require the traffic study to include any elements determined necessary in order to evaluate the nature and extent of appropriate mitigation measures. The report shall contain quantification of existing traffic, including existing LOS circulation, and parking plus that for the site after the proposed project is constructed. The analysis shall consider traffic impacts during the peak period. If the development generates significant traffic volumes outside the peak period of the adjacent road system, the City Engineer or his/her designee will determine the appropriate time interval of the analysis. The report shall also propose means to mitigate the impacts of the project in accordance with BMC 11 12 060 Traffic Impact Analysis Reports. The traffic impact analysis shall be prepared by a Washington Registered Professional Engineer who is qualified in traffic engineering.

B While access to the north via Sherman Heights Road does not provide the most direct route to Werner Avenue and SR 3, this corridor (including Sherman Heights Road, Kent Avenue, 3rd Avenue and Union Avenue) shall be evaluated for spot intersection improvements to make this route and attractive route for traffic originating in the Gorst UGA to head north to avoid having to access SR 3 in central Gorst.

C While Werner road is north of the Gorst UGA, this roadway is considered an important route for Gorst UGA traffic to access SR 3. The Werner Road corridor between Union Avenue and SR 3 shall be evaluated as part of traffic impact analysis reports prepared for new development in order to optimize the traffic flow on this corridor.

11 Traffic mitigation shall be provided consistent with BMC 11 12 070 and as follows

A The City Engineer or his/her designee shall impose conditions necessary to mitigate all impacts of traffic, circulation and parking resulting from a project. For segments, intersections or other portions of the street system for which a LOS standard has been adopted within the current comprehensive plan of the city, mitigation measures shall be sufficient, in the estimation of the City Engineer or his/her designee, to assure that such segments, intersections or other portions of the street system continue to meet or exceed the adopted LOS standards after full project occupancy and operation. For segments, intersections or other portions of the street system for where the present LOS is below the standard that has been adopted in the current comprehensive plan, the mitigation measure shall be sufficient in the estimation of the City Engineer or his/her designee to maintain or exceed the present LOS. Mitigation measures may include, but are not limited to, channelization, intersection modifications, signal installation, modification, or replacement, installation of acceleration/deceleration lanes, turn lanes and medians.

B Required traffic mitigations related to LOS standard shall not require that an applicant mitigate portions of traffic not attributable to the project.

C The City Engineer or his/her designee may require the applicant to participate in the funding of mitigation measures required as a result of traffic impacts associated with development on the property in lieu of construction of the improvements if the City Engineer or his/her designee determines that the delay in construction will not adversely impact the City Transportation System, and the best interests of the public would be better served by the delay.

(d) **Discretion** The City Engineer or his/her designee or his/her designee shall have discretion to determine incremental and total trip generation, consistent with the Institute of Traffic Engineers (ITE) Trip Generation Manual (latest edition) or an alternative manual accepted by the City Engineer at his or her sole discretion, for each project permit application proposed under this Planned Action

(4) **Elements of the Environment and Degree of Impacts** A proposed project that would result in a significant change in the type or degree of adverse impacts to any element(s) of the environment analyzed in the Planned Action EIS, would not qualify as a Planned Action

(5) **Changed Conditions** Should environmental conditions change significantly from those analyzed in the Planned Action EIS, the City's SEPA Responsible Official may determine that the Planned Action designation is no longer applicable until supplemental environmental review is conducted

(6) **Substantive Authority** Pursuant to SEPA Substantive Authority at BMC 20 04 010 and Comprehensive Plan Policies, impacts shall be mitigated through the measures included in **Exhibit B**

**E** Planned Action Review Criteria

(1) The City's SEPA Responsible Official may designate as "planned actions", pursuant to RCW 43 21C 030, applications that meet all of the following conditions

(a) The proposal is located within the Planned Action area identified in **Exhibit A** of this ordinance,

(b) The proposed uses and activities are consistent with those described in the Planned Action EIS and "Planned Action Qualifications" set forth in Subsection 4(D) of this ordinance,

(c) The proposal is within the Planned Action thresholds and other criteria of Subsection 4(D) of this ordinance,

(d) The proposal is consistent with the City of Bremerton Comprehensive Plan and the Gorst Subarea Plan,

(e) The proposal's significant adverse environmental impacts have been identified in the Planned Action EIS,

(f) The proposal's significant impacts have been mitigated by application of the measures identified in **Exhibit B**, and other applicable City regulations, together with any modifications or variances or special permits that may be required,

(g) The proposal complies with all applicable local, state and/or federal laws and regulations, and the SEPA Responsible Official determines that these constitute adequate mitigation, and

(h) The proposal is not an essential public facility as defined by RCW 36 70A 200(1), unless the essential public facility is accessory to or part of a development that is designated as a planned action under this ordinance

(2) The City shall base its decision on review of a Planned Action SEPA checklist (**Exhibit C**), or an alternative form approved by state law, and review of the application and supporting documentation

(3) A proposal that meets the criteria of this section shall be considered to qualify and be designated as a planned action, consistent with the requirements of RCW 43 21C 030, WAC 197-11-164 et seq, and this ordinance

**F** Effect of Planned Action

(1) Designation as a Planned Action Project by the SEPA Responsible Official means that a qualifying proposal has been reviewed in accordance with this Ordinance and found to be

consistent with the development parameters and thresholds established herein, and with the environmental analysis contained in the Planned Action EIS

(2) Upon determination by the City's SEPA Responsible Official that the proposal meets the criteria of "Planned Action Qualifications" set forth in Subsection 4(D) of this ordinance and qualifies as a planned action, the proposal shall not require a SEPA threshold determination, preparation of an EIS, or be subject to further review pursuant to SEPA

G Planned Action Permit Process Applications for planned actions shall be reviewed pursuant to the following process

(1) Development applications shall meet all applicable requirements of the Bremerton Municipal Code (BMC) Applications for planned actions shall be made on forms provided by the City and shall include the Planned Action SEPA checklist (**Exhibit B**)

(2) The City's SEPA Responsible Official shall determine whether the application is complete as provided in BMC Chapter 20 02

(3) If the application is for a project within the Planned Action Area defined in **Exhibit A**, the application will be reviewed to determine if it is consistent with the criteria of this ordinance and thereby qualifies as a Planned Action project

(a) The decision of the City's SEPA Responsible Official regarding qualification of a project as a Planned Action is a Type 1 decision The SEPA Responsible Official shall notify the applicant of his/her decision Notice of the determination on Type 1 decisions involving a planned action shall also be mailed or otherwise verifiably delivered to federally recognized tribal governments and to agencies with jurisdiction over the planned action project, pursuant to Chapter 1, Laws of 2012 (Engrossed Substitute Senate Bill (ESSB) 6406) and RCW 43 21C 440

(b) If the project is determined to qualify as a Planned Action, it shall proceed in accordance with the applicable permit review procedures specified in BMC Chapter 20 02, except that no SEPA threshold determination, EIS or additional SEPA review shall be required

(c) Notice of the application for a planned action project shall be consistent with Chapter 20 02 BMC

(4) If notice is otherwise required for the underlying permit, the notice shall state that the project has qualified as a Planned Action If notice is not otherwise required for the underlying permit, no special notice is required by this ordinance See Subsection 4(G)(3)(a) regarding notice of the Type 1 decision

(5) To provide additional certainty about applicable requirements, the City or applicant may request consideration and execution of a development agreement for a Planned Action project, consistent with RCW 36 70B 170 et seq

(6) If a project is determined to not qualify as a Planned Action, the SEPA Responsible Official shall so notify the applicant and prescribe a SEPA review procedure consistent with the City's SEPA regulations and the requirements of state law The notice shall describe the elements of the application that result in failure to qualify as a Planned Action

(7) Projects that fail to qualify as Planned Actions may incorporate or otherwise use relevant elements of the Planned Action EIS, as well as other relevant SEPA documents, to meet their SEPA requirements The SEPA Responsible Official may limit the scope of SEPA review for the non-qualifying project to those issues and environmental impacts not previously addressed in the Planned Action EIS

#### **SECTION 5. Monitoring and Review**

A The City should monitor the progress of development in the designated Planned Action area as deemed appropriate to ensure that it is consistent with the assumptions of this



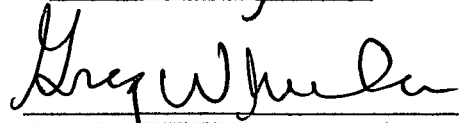
ordinance and the Planned Action EIS regarding the type and amount of development and associated impacts, and with the mitigation measures and improvements planned for the Planned Action Area

B This Planned Action Ordinance shall be reviewed by the SEPA Responsible Official no later than five years from its effective date. The review shall determine the continuing relevance of the Planned Action assumptions and findings with respect to environmental conditions in the Planned Action area, the impacts of development, and required mitigation measures. The SEPA Responsible Official shall also consider the implementation of Public Agency Actions and Commitments in **Exhibit C**. Based upon this review, the City may propose amendments to this ordinance and/or may supplement or revise the Planned Action EIS

**SECTION 6. Conflict.** In the event of a conflict between this Ordinance or any mitigation measures imposed thereto, and any Ordinance or regulation of the City, the provisions of this Ordinance shall control, except that the provision of any International Building Code shall supersede

**SECTION 7. Severability** If any one or more sections, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this Ordinance and the same shall remain in full force and effect

**SECTION 8. Effective Date** This ordinance shall take effect and be in force ten (10) days from and after its passage, approval and publication as provided by law PASSED by the City Council the 19<sup>th</sup> day of February, 2014

  
GREG WHEELER, Council President

Approved this 19<sup>th</sup> day of FEBRUARY, 2014

  
PATTY LENT, Mayor

ATTEST

  
SHANNON CORIN, City Clerk

APPROVED AS TO FORM

  
ROGER A. LUBOVICH, City Attorney

PUBLISHED the 24<sup>th</sup> day of February, 2014  
EFFECTIVE the 6<sup>th</sup> day of March, 2014

ORDINANCE NO 5240