

ORDINANCE NO. 1081

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE PROCEDURE FOR DETERMINING THE CAPACITY OF TRANSPORTATION FACILITIES, REMOVING THE REQUIREMENT FOR AN APPLICANT TO PREPARE A TRAFFIC IMPACT ANALYSIS USED IN THE DETERMINATION OF TRANSPORTATION CONCURRENCY, ADDING THE REQUIREMENT FOR THE APPLICANT TO PAY THE CITY A FEE TO PREPARE A TRAFFIC REPORT USED IN THE DETERMINATION OF TRANSPORTATION CONCURRENCY, CLARIFYING THAT THE APPLICANT MAY IDENTIFY AND PROVIDE MITIGATION FOR THEIR DEVELOPMENT IN ORDER TO ACHIEVE CONCURRENCY, AND AMENDING SECTIONS 19.10.003, 19.10.011, 19.10.013, 19.10.019, 19.10.021, AND 19.10.027 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, currently, every applicant for a development or redevelopment in the City must submit an application for transportation concurrency to the City; and

WHEREAS, currently, every concurrency application must include a traffic impact analysis if the development will generate more than 15 PM peak hour trips or if the development will distribute one or more PM peak hour trips through an intersection or roadway section identified with a level of service "D" on the City's comprehensive plan; and

WHEREAS, each traffic impact analysis is prepared at the applicant's cost and describes the applicant's perceived impact of the development on the City's transportation system; and

WHEREAS, evaluation of individual traffic impact analyses therefore are time consuming because applicant's must prepare assumptions and calculate results while the City Engineer must review and verify the assumptions and the results; and

WHEREAS, the City of Gig Harbor has recently created a computerized traffic model of the City's roadways for purposes of evaluating capacity; and

WHEREAS, the City Engineer's evaluation of each applicant's traffic impact analysis is difficult because each traffic impact analysis is prepared based on assumptions that may or may not be congruent with the City's traffic model; and

WHEREAS, the City can use the traffic model to assist with determining transportation capacity for individual project permit and other development applications; and

WHEREAS, use of a single traffic model that is updated after evaluation of each application approval will allow the City Engineer to more accurately and efficiently determine transportation concurrency for each subsequent project; and

WHEREAS, with the use of a single comprehensive, consistent, and current traffic model of the City's roadways to evaluate transportation concurrency for individual applications, each applicant is not required to hire a traffic engineer to license, develop, and maintain individual traffic models; and

WHEREAS, a single comprehensive, consistent, and current traffic model of the City's roadways will reduce the duplication of work by multiple independent traffic engineers and the City, which currently includes collection of background data and preparation of assumptions and the subsequent review and verification, and

WHEREAS, the City's traffic model will be used in the creation of a Traffic Report for each proposed development; and

WHEREAS, this Traffic Report will be provided to the applicant by the City for a cost based on fees determined by Resolution; and

WHEREAS, this Traffic Report will be used in the determination of transportation concurrency; and

WHEREAS, transportation impacts associated with concurrency applications for an individual single family residences are established in engineering texts and therefore analysis of their traffic impacts through creation of a Traffic Report is not necessary; and

WHEREAS, applicants will still be allowed to prepare and submit traffic reports if they disagree with the City's Traffic Report, although at their own cost; and

WHEREAS, applicants are required to identify and provide mitigation for those developments or redevelopments that might not otherwise receive concurrency in order to obtain a concurrency certificate; and

WHEREAS, per WAC 197.11.800(19), the proposed action is categorically exempt for a threshold determination and EIS requirements; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meetings of April 4th and April 23rd, 2007;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DOES ORDAIN; as follows:

Section 1. Chapter 19.10.003 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.10.003 Exempt development.

A. No development activity (as defined in Chapter 19.14 GHMC) shall be exempt from the requirements of this chapter unless the permit is listed below. The following types of permits are not subject to the capacity reservation certificate (CRC) process because they do not create additional long-term impacts on transportation facilities or sewer capacity in the city's wastewater treatment plant, or water capacity in the city's water system:

1. Administrative interpretations;
2. Sign permit;
3. Street vacation;
4. Demolition permit;
5. Street use permit;
6. Interior alterations with no change of use;
7. Excavation/clearing permit;
8. Hydrant use permit;
9. Right-of-way permit;
10. Single-family remodeling with no change of use;
11. Plumbing permit;
12. Electrical permit;
13. Mechanical permit;
14. Excavation permit;
15. Sewer connection permit;
16. Driveway or street access permit;
17. Grading permit;
18. Tenant improvement permit;
19. Fire code permit;
20. Design review approval.

Notwithstanding the above, if any of the above permit applications will generate any new p.m. peak-hour trips, require additional sewer capacity, or increase water consumption, such application shall not be exempt from the requirements of this chapter.

B. 1. Transportation. This chapter shall apply to all development applications for development or redevelopment if the proposal or use will generate any new p.m. peak-hour trips. Every application for development shall be accompanied by a concurrency application. Developments or redevelopments, excluding an individual single family residence, that will generate one or more new projected vehicle trips that will pass through an intersection or roadway section identified with a level of service below the acceptable level noted in the transportation element of the City's Comprehensive Plan, or that will generate 15 or more new PM peak hour

trips shall also be required to have the City prepare a Traffic Report as defined in GHMC 19.10.011.

2. Water. This chapter shall apply to all development applications or outside city limits utility extension agreements (under Chapter 13.34 GHMC) for development or redevelopment if the proposal or use requires water from the city's water system. In addition, this chapter shall apply to existing developments to the extent that the property owner requires water for a use not disclosed on a previously submitted water service application under GHMC 13.02.030 or a previously submitted application for a capacity reservation certificate.

3. Sewer. This chapter shall apply to all development applications or outside city limits utility extension agreements (under Chapter 13.34 GHMC) for development or redevelopment if the proposal or use requires sewer from the city's sewer system. In addition, this chapter shall apply to existing developments to the extent that the property owner requires sewer for a use not disclosed on a previously approved request for sewer service or a previously approved application for a capacity reservation certificate.

Section 2. Chapter 19.10.011 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.10.011 Water, transportation and sewer –Application for capacity evaluation.

A. An application for a CRC and the application for the underlying development permit, or other activity, shall be accompanied by the requisite fee, as determined by city council resolution. An applicant for a CRC shall submit the following information to the director, on a form provided by the director together with a development application:

1. Date of submittal.
2. Developer's name, address and telephone number.
3. Legal description of property as required by the underlying development permit application together with an exhibit showing a map of the property.
4. Proposed use(s) by land use category, square feet and number of units.
5. Phasing information by proposed uses, square feet and number of units, if applicable.
6. Existing use of property.
7. Acreage of property.
8. Proposed site design information, if applicable.

9. For transportation CRC applications only: A preliminary site plan, which is a plan showing the approximate layout of proposed structures and other development, type and number of dwelling units, type and number of non-residential building areas with gross square footage, the land use codes per the most recent edition of Trip Generation from the Institute of Transportation Engineers (ITE), and an analysis of the points of access to existing and proposed roadways..

10. The applicant's proposed mitigation (if any) for the impact on the city's transportation facilities.

11. Written consent of the property owner, if different from the developer.

12. Proposed request of capacity by legal description, if applicable.

13. For water CRC applications only: Water hydraulic report prepared by a licensed professional engineer, which shall include the purpose for which the water is required.

14. For sewer CRC applications only: Sewer hydraulic report prepared by a licensed professional engineer, which shall include the purpose for which the sewer is required.

15. Stormwater drainage report prepared by a licensed professional engineer.

B. Transportation. The applicant is not required to submit a traffic impact analysis from an independent traffic engineer. Instead, those applicants with transportation CRC applications that are required to have the City provide a Traffic Report in accordance with GHMC 19.10.003(B)(1) shall instead pay to the City a deposit equal to the estimated fee for the City's preparation of a Traffic Report. The amount of the fee shall be determined by City Resolution and paid at the time of transportation CRC application submittal. The fee shall vary based on the number of new PM peak hour trips produced by the development. The applicant shall be subject to repayment of fees for any subsequent revisions to the original Traffic Report. Fees for revisions may be an additional proportion of the original fee depending on the effort involved to revise the Traffic Report. Even if the Traffic Report is based on an estimation of impact, the applicant will still be bound by its estimation of impact, and any upward deviation from the estimated traffic impact shall require at least one of the following: a finding that the additional concurrency sought by the developer through a revised application is available to be reserved by the project; mitigation of the additional impact under SEPA; revocation of the CRC.

Section 3. Chapter 19.10.013 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.10.013 Method of capacity evaluation

A. In order to determine concurrency for the purposes of issuance of a transportation CRC, the director shall make the determination described in subsection B of this section. In order to determine concurrency for the purpose of issuance of a water CRC, the director shall make the determination described in subsection C of this section. In order to determine concurrency for the purpose of issuance of a sewer CRC, the director shall make the determination described in subsection D of this section. The director may deem the development concurrent with transportation facilities or the city's water system, with the condition that the necessary facilities or services shall be available when the impacts of the development occur or shall be guaranteed to be available through a financial commitment in an enforceable development agreement (which shall be in a form approved by the city attorney). In no event shall the director determine concurrency for a greater amount of capacity than is needed for the development proposed in the underlying permit application.

B. Transportation.

1. Upon submission and acceptance of a complete transportation CRC application, the director shall conduct a traffic impact analysis and issue a Traffic Report for those applications meeting the requirements of GHMC 19.10.003(B)(1)

2. In performing the concurrency evaluation for transportation facilities, the director shall determine, based on the conclusions of the Traffic Report, whether a proposed development can be accommodated within the existing or planned capacity of transportation facilities. This shall involve the following:

a. A determination of anticipated total capacity at the time the proposed impacts of development occur;

b. Calculation of how much of that capacity will be used by existing developments and other planned developments at the time the impacts of the proposed development occur;

c. Calculation of the available capacity for the proposed development;

d. Calculation of the impact on the capacity of the proposed development, minus the effects of any mitigation identified by the applicant to be provided by the applicant at the applicant's cost; and

e. Comparison of available capacity with proposed development impacts.

3. The director shall determine if the capacity of the city's transportation facilities, less the capacity which is reserved, can be provided while meeting the level of service performance standards set forth in the city's comprehensive plan, and, if so, shall provide the applicant with a transportation CRC. The director's determination will be based on the application materials provided by the applicant, which must include the applicant's proposed mitigation for the impact on the city's transportation facilities.

C. Water.

1. In performing the concurrency evaluation for water, and to prepare the water CRC, the director shall determine whether a proposed development can be accommodated within the existing or planned capacity of the city water system. This shall involve the following:

a. A determination of anticipated total capacity at the time the proposed impacts of development occur;

b. Calculation of how much of that capacity will be used by existing developments and other planned developments at the time the impacts of the proposed development occur;

c. Calculation of the available capacity for the proposed development;

d. Calculation of the impact on the capacity of the proposed development, minus the effects of any mitigation provided by the applicant; and

e. Comparison of available capacity with proposed development impacts.

2. The director shall determine if the capacity of the city's water facility, less the capacity which is reserved, can be provided while remaining within the city's permitted water rights for withdrawal volume, and if so, shall provide the applicant with a water CRC.

D. Sewer.

1. In performing the concurrency evaluation for sewer, and to prepare the sewer CRC determination, the director shall determine whether a

proposed development can be accommodated within the existing or planned capacity of the city's sewer system. This shall involve the following:

- a. A determination of anticipated total capacity at the time the proposed impacts of development occur;
- b. Calculation of how much of that capacity will be used by existing developments and other planned developments at the time the impacts of the proposed development occur;
- c. Calculation of the available capacity for the proposed development;
- d. Calculation of the impact on the available capacity for the proposed development, minus the effects of any mitigation provided by the applicant; and
- e. Comparison of available capacity with proposed development impacts.

2. The director shall determine if the capacity of the city's wastewater treatment plant, less the capacity which is reserved, can be provided while remaining within the city's NPDES permit for discharge volumes and levels, and, if so, shall provide the applicant with a sewer CRC.

E. Lack of Concurrency.

1. Transportation. If the director determines that the proposed development will cause the LOS of a city-owned transportation facility to decline below the standards adopted in the transportation element of the city's comprehensive plan, and improvements or strategies to accommodate the impacts of development are not planned to be made concurrent with development, a transportation CRC and the underlying development permit, if such an application has been made, shall be denied. Upon denial, the applicant may perform one of the following:

- a. Appeal the findings of the Traffic Report in accordance with GHMC 19.10.021;
- b. Offer alternative data and/or perform an independent traffic impact analysis at the applicant's sole expense in support of alternative conclusions. Any study shall be in accordance with GHMC 19.10.027;
- c. Modify the development proposal to lessen the traffic impacts and/or identify voluntary transportation improvements as mitigation to be provided by the applicant at the applicant's cost and re-apply for capacity review. Re-application shall require re-payment of the Traffic Report preparation fee in accordance with GHMC 19.10.011(B); or

d. Withdraw the CRC application.

2. Water. If the director determines that there is no capacity available in the city's water system to provide water for a proposed project, and improvements or strategies to accommodate the impacts of development are not planned to be made concurrent with development, the director shall deny the water CRC. The city has the discretion allowed under the Gig Harbor Municipal Code to deny the underlying development application, depending on the applicant's ability to provide water for the proposed project from another source.

Section 4. Chapter 19.10.019 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.10.019 Notice of concurrency determination.

Notice of the concurrency determination shall be given to the public together with, and in the same manner as, that provided for the SEPA threshold determination for the underlying development permit, unless the project is exempt from SEPA, in which case notice shall be given in the same manner as a final decision on the underlying development permit without any accompanying threshold determination. In the case of an approved CRC, any mitigation identified by the applicant to be provided by the applicant at the applicant's cost shall be included in the SEPA threshold decision or underlying permit decision (if categorically exempt from SEPA). If a denial letter is not timely appealed, the underlying permit will be processed and in most instances will result in a denial. If a denial letter is appealed, any mitigation or conditions included in the appeal decision shall be included in the SEPA threshold decision or underlying permit decision (if categorically exempt from SEPA).

Section 5. Chapter 19.10.021 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.10.021 Appeals.

Upon receipt of an appeal of the denial letter, the director shall handle the appeal as follows:

A. A meeting shall be scheduled with the applicant to review the denial letter and the application materials, together with the appeal statement.

B. Within 14 days after the meeting, the director shall issue a written appeal decision, which will list all of the materials considered in making the decision. The appeal decision shall either affirm or reverse the denial letter. If the denial letter is reversed, the director shall identify the mitigation identified

by the applicant to be provided by the applicant at the applicant's cost to be imposed on the application in order to achieve concurrency.

C. The mitigation identified in the appeal decision shall be incorporated into the city's SEPA threshold decision on the application.

D. The appeal decision shall state that it may be appealed with any appeal of the underlying application or activity, pursuant to GHMC 19.06.004.

Section 6. Chapter 19.10.027 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.10.027 Traffic impact analysis standardized format.

Attached to Ord. 1044 codified in this chapter and incorporated herein is the standardized format required for the developer's independent traffic impact analysis. The impact analysis may be completed at the time of submittal of the original application or upon denial of a transportation CRC application.

Section 7. 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 8. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this 23rd day of April 2007.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:

By: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 04/04/07
PASSED BY THE CITY COUNCIL: 04/23/07
PUBLISHED: 05/02/07
EFFECTIVE DATE: 05/07/07
ORDINANCE NO: 1081