

ORDINANCE NO. 1003

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING AN IMMEDIATE EMERGENCY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR NEW DEVELOPMENT OF NON-RESIDENTIAL STRUCTURES OR CERTAIN TYPES OF RE-DEVELOPMENT OF NON-RESIDENTIAL STRUCTURES WITHIN THE WATERFRONT MILLVILLE ZONE, SUCH MORATORIUM TO BE EFFECTIVE IMMEDIATELY, DEFINING THE APPLICATIONS SUBJECT TO THE MORATORIUM, SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM, ESTABLISHING TWO MONTHS AS THE TENTATIVE EFFECTIVE PERIOD OF THE MORATORIUM, AND DECLARING AN EMERGENCY NECESSITATING IMMEDIATE ADOPTION OF A MORATORIUM.

WHEREAS, the City Council has conducted an in-depth review of development along the waterfront in Gig Harbor, which has been detailed in several recently passed ordinances, including Ordinance 965 (imposing a moratorium on development in the waterfront and height restriction area) and ordinances continuing and terminating the moratorium; and

WHEREAS, the City Council's consideration of development along the Gig Harbor waterfront led to the adoption of several ordinances regulating building size; and

WHEREAS, upon further investigation, the Council learned that the Waterfront Millville zone is unique among the waterfront zones because non-residential structures in that zone are limited in size by "gross floor area," while the other waterfront zones limit building size based on building footprint; and

WHEREAS, the calculation of "gross floor area," as defined in the Gig Harbor Municipal Code, does not include areas constructed for and designated as a garage area (it also does not include accessory water tanks and cooling towers, mechanical

equipment, unfinished attics regardless of headroom), which may result in the development of excessively large structures that are incompatible with other structures in the same zone;

WHEREAS, the fact that nonresidential structures in the WM zone are regulated differently from nonresidential structures in the other waterfront zones could result in the development of excessively large structures which are uncharacteristic of the historical development pattern in the WM;

WHEREAS, the City desires to impose an immediate moratorium on the acceptance of development applications for any “development activity” or “development permit” as defined in Gig Harbor Municipal Code Section 19.14.010(24) and (26) for any nonresidential structure in the Waterfront Millville (WM) zone, unless the development is actually a remodel of an existing nonresidential structure which will not increase the size of the existing structure; Now, Therefore:

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

Section 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply:

A. **“Exempt Development Permit”** shall mean all of the following permit applications for “development” or “development activity” defined in GHMC Section 19.14.010(24) and 19.14.010(26), a copy of which is attached to this Ordinance as Exhibit A, which:

1. were determined complete by City staff and submitted to the City on or before the effective date of this Ordinance;

2. propose development or a development activity which is not a nonresidential structure in the Waterfront Millville zone; and/or

3. are remodels of any existing nonresidential structure in the Waterfront Millville zone, as long as it does not increase the size of the existing structure (either by height, bulk, scale or footprint).

B. **“Non-Exempt Development Permits”** shall include any permits or permit applications for any “development activity” as defined in GHMC Section 19.14.010(24) and 19.14.010(26), including planned unit developments, for nonresidential structures in the Waterfront Millville zone. Any permits meeting this description that were submitted to the City but not determined complete by City staff on or before the effective date of this Ordinance are also “non-exempt development permits.” The Waterfront Millville (WM) zone is shown on the City’s Official Zoning Map.

Section 2. Purpose. The purpose of this moratorium is to allow the City to analyze the issue whether nonresidential structures in all waterfront zones should be regulated uniformly as to building size. Currently, the nonresidential structures in the Waterfront Millville zone are not regulated as to building footprint, but instead as to “gross floor area,” which may allow the construction of buildings that are incompatible with other structures in the waterfront zones. In addition, the current regulations may allow construction of nonresidential structures that do not preserve the “small town feel” that is characteristic of the structures along the waterfront. Additional time is needed for the Planning Commission to hold a hearing on this issue, allow the receipt of public testimony and consideration of a proposed ordinance by the City Council.

Section 3. Moratorium Imposed. The City Council hereby imposes an immediate two (2) month moratorium on the acceptance of all non-exempt development permit applications for development activities relating to nonresidential structures in the Waterfront Millville zone. All such non-exempt applications received shall be rejected and returned to the applicant. With regard to the City's acceptance of any exempt development application, such acceptance shall only allow processing to proceed, but shall not constitute an assurance that the application will be approved.

Section 4. Duration of Moratorium. The moratorium imposed by this Ordinance shall commence on the date of the adoption of this Ordinance. As long as the City holds a public hearing on the moratorium and adopts findings and conclusions in support of the moratorium (as contemplated by Section 5 herein), the moratorium shall not terminate until two (2) months after the date of adoption. The Council shall make the decision to terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.

Section 5. Public Hearing on Moratorium. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing on this moratorium within sixty (60) days of its adoption, or before July 29, 2005. The Council shall hold this hearing on June 27, 2005. Immediately after the public hearing, the City Council shall adopt findings of fact on the subject of the moratorium and either justify its continued imposition or cancel the moratorium.

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or invalid by any 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. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum (RCW 35A.12.130). Without an immediate moratorium on the City's acceptance of non-exempt development applications for nonresidential structures in the WM zone, such applications could become vested, leading to development that could be incompatible with the codes eventually adopted by the City. Therefore, the moratorium must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of a flood of applications to the City in an attempt to vest rights for an indefinite period of time. This Ordinance does not affect any existing rights, nor will it prohibit all development in the City, because those property owners with exempt applications/permits, those with previously obtained approvals for development or redevelopment of the type identified as "exempt" may proceed with processing and development, as the case may be.

Section 8. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 9. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth in Section 7, as long as it is approved by a majority plus one of the entire membership of the Council, as required by RCW 35A.12.130.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor,
this 31st day of May, 2005.

CITY OF GIG HARBOR

MAYOR GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

CAROL A. MORRIS CITY ATTORNEY

Exhibit “A”

Gig Harbor Municipal Code

Chapter 19.14

CONCURRENCY AND IMPACT FEE PROGRAM DEFINITIONS

19.14.010 Definitions.

24. “Development activity” or “development” means any construction or expansion of a building, structure, or use; any change in the use of a building or structure; or any changes in the use of the land that creates additional demand for public facilities (such as a change which results in an increase in the number of vehicle trips to and from the property, building or structure) and requires a development permit from the city.

26. “Development permit” or “project permit” means any land use permit required by the city for a project action, including but not limited to building permits, subdivisions, short plats, binding site plans, planned unit developments, conditional uses, shoreline substantial developments, site plan reviews, or site specific rezones, and, for purposes of the city’s concurrency ordinance, shall include applications for amendments to the city’s comprehensive plan which request an increase in the extent or density of development on the subject property.