

ORDINANCE NO. 986

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, CONTINUING AN EMERGENCY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR NEW DEVELOPMENT OR CERTAIN TYPES OF RE-DEVELOPMENT IN THE CITY'S HEIGHT RESTRICTION AREA FOR A PERIOD OF 90 DAYS, AS THE MORATORIUM WAS ORIGINALLY IMPOSED UNDER ORDINANCE 965 AND AS LATER AMENDED UNDER ORDINANCES 968 AND 979.

WHEREAS, on July 12, 2004, the Gig Harbor City Council passed Ordinance No. 965, imposing an immediate moratorium on the acceptance of applications for new development or certain types of re-development within the height restriction area as shown on the official height restriction map; and

WHEREAS, Ordinance No. 965 defined the permit applications that were exempt from the moratorium; and

WHEREAS, on September 13, 2004, the City Council passed Ordinance No. 968, which adopted findings and conclusions supporting the continued maintenance of the moratorium; and

WHEREAS, Ordinance 968 included definitions of the permit applications that were exempt from the moratorium; and

WHEREAS, Ordinance 979 further defined the exempt permit applications, amending Ordinances 965 and 968; and

WHEREAS, the City has made substantial progress in addressing the issues of the moratorium during the time that the moratorium has been in place, including amendments to the City's Design Manual that, in part, (a) impose additional height limits on non-residential structures within the historic district

portion of the view basin, (b) limit the use of tall vegetation in addressing buffering issues in the view basin, and (c) eliminate the allowance for additional height on primary structures in the view basin. Additionally, the City's Community Development Committee has met regularly to determine what additional standards should be imposed to address the concerns expressed by citizens during the public meeting on the building size issue that were not addressed in the Design Manual update, and has directed the staff to complete the drafting of text amendments specified by the Committee; and

WHEREAS, an outline of the Community Development Committee's proposed amendments was presented to the City Council on January 10, 2004; and

WHEREAS, additional time is needed to both allow planning commission and public review of the proposed text amendments and also to allow a 60-day review of the amendments by State agencies pursuant to RCW 36.70A.106; and

WHEREAS, RCW 36.70A.390 allows the City to extend a moratorium for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal; and

WHEREAS, because the moratorium will expire on January 12, 2005, the City Council considered the issue whether the moratorium should be extended for an additional 90-day period during its regular Council meeting on January 10, 2005; 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 definitions in Ordinances 965, 968 and 979 apply.

Section 2. Purpose. The purpose of this moratorium is to allow the City adequate time to (a) notify the Department of Community, Trade and Economic Development pursuant to RCW 36.70A.106; (b) hold Planning Commission hearings on the text amendments addressing building size limitations in the height restriction district; (c) allow the City Council to consider the text amendments in either a public meeting or a public hearing, and determine whether or not to adopt such text amendments. The area affected by this moratorium (the height restriction district) is shown on a map attached hereto, identified as Exhibit A.

Section 3. Moratorium Extended. The City Council extends the moratorium that will expire on January 12, 2005, for a 90-day period, or until April 12, 2005. This moratorium applies to the acceptance of all non-exempt development permit applications as such applications are defined in Ordinances 965, 968 & 979. All such non-exempt applications shall be rejected and returned to the applicant.

Section 4. Duration of Moratorium. The moratorium imposed by this Ordinance shall commence on the date of 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 92 days after the date of adoption (which is 90 days after the expiration of the original moratorium ordinance), or at the

time all of the tasks herein have been accomplished, whichever is sooner. 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 on February 15, 2005, which falls within sixty (60) days of adoption. Immediately after the public hearing, the City Council shall adopt findings of fact on the subject of this moratorium and either justify its continued existence or cancel the moratorium.

Section 6. Work Plan. During the public hearing on the extension of the moratorium, the Council may consider whether a work plan should be developed to timely accomplish the Council's goals. The Council may consider the following:

<u>Deadline</u>	<u>Description</u>
January 24, 2005	Finalization of text amendment ordinance.
February 11, 2005	SEPA threshold decision on text amendment ordinance.
February 11, 2005	Transmittal of text amendment ordinance to DCTED.
March 3, 2005	Public hearing before the Planning Commission on text amendment ordinance
March 17, 2005	Recommendation of Planning Commission to City Council on text amendment ordinance
March 28, 2005	City Council consideration of text amendment ordinance
April 11, 2005	Final Council action on text amendment ordinance

Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance shall be held to be unconstitutional or invalid 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. 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, such applications could become vested, which would thwart the City's attempt to change the regulations and prevent the construction of new development under the old regulations. 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 development applications to the City in an attempt to vest rights for an indefinite period of time. This Ordinance does not affect any existing vested rights, nor will it prohibit all development in the City, because those property owners with exempt applications/permit, those with previously obtained approvals for development may proceed with processing and construction.

Section 9. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 10. Effective Date. This Ordinance shall take effect and be in full force immediately upon passage, as set forth above, 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 Gig Harbor City Council and the Mayor of the City of Gig Harbor this 10th day of January, 2005.

CITY OF GIG HARBOR



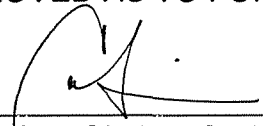
GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: 

MOLLY TOWSLEE, CITY CLERK

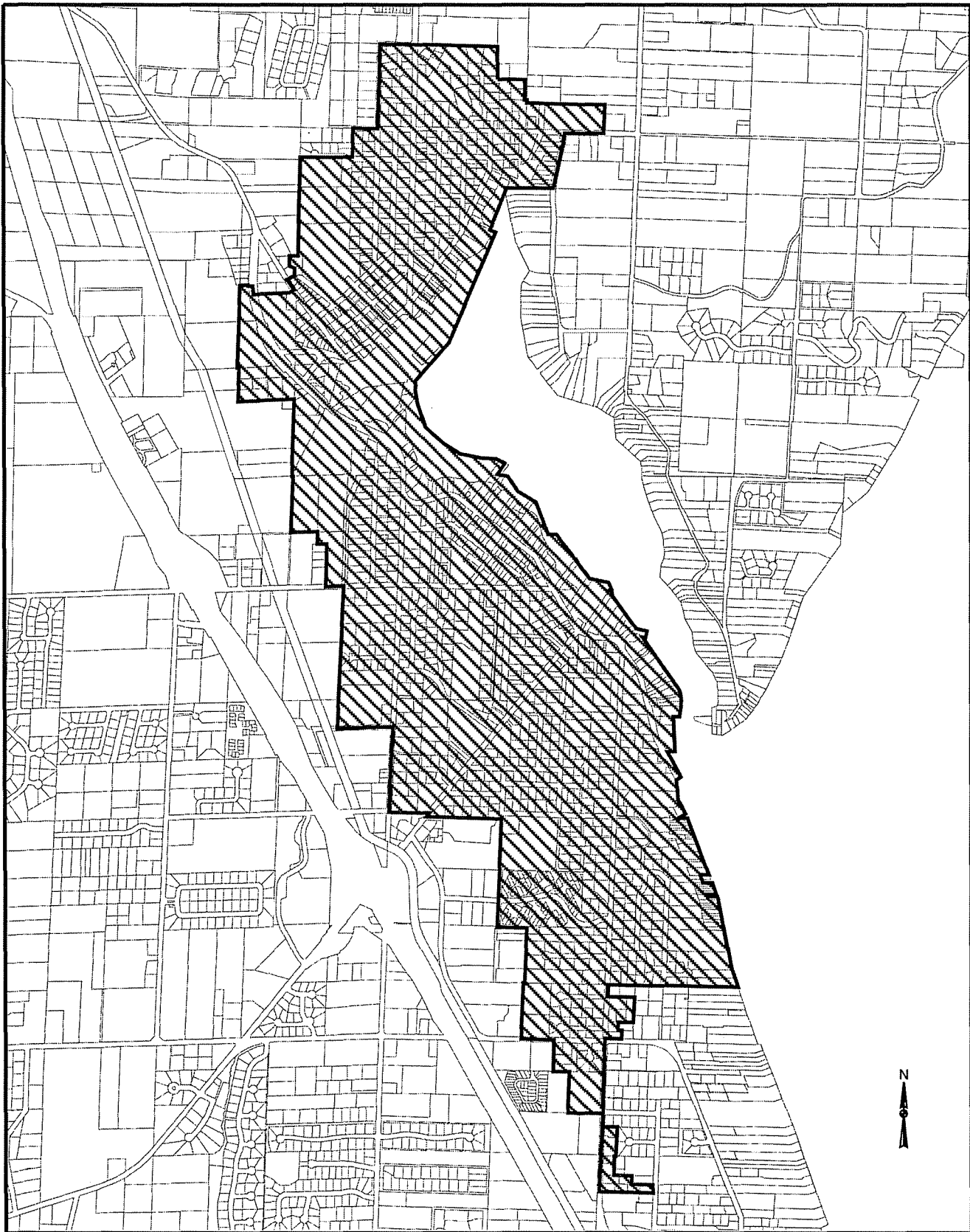
APPROVED AS TO FORM:

By: 

CAROL A. MORRIS, CITY ATTORNEY

FILED WITH CITY CLERK: 1/5/05
DATE PASSED: 1/10/05
DATE OF PUBLICATION: 1/19/05
EFFECTIVE DATE: 1/10/05

Exhibit "A"



Height Restriction Area