

ORDINANCE NO. 968

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE ADOPTION OF FINDINGS AND CONCLUSIONS TO SUPPORT AN EMERGENCY 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, UNTIL THE CITY FINISHES THE PROCESS OF CODE REVIEW AND AMENDMENT RELATING TO BUILDING SIZE LIMITATIONS, DEFINING THE APPLICATIONS SUBJECT TO THE MORATORIUM, AND CONFIRMING THE MAINTENANCE OF THE MORATORIUM FOR SIX MONTHS AFTER INITIAL IMPOSITION AS THE EFFECTIVE PERIOD.

WHEREAS, the City Council of the City of Gig Harbor may adopt an immediate moratorium for a period of up to six months on the acceptance of certain development permit applications and utility extension agreements, as long as the City Council holds a public hearing on the proposed moratorium within sixty (60) days after adoption (RCW 35A.63.220, RCW 36.70A.390); and

WHEREAS, on July 12, 2004, the Gig Harbor City Council passed Ordinance No. 965 imposing an immediate moratorium on the acceptance of 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, the City held a public hearing on the moratorium on August 9, 2004, which was continued until August 23, 2004; and

WHEREAS, the City Council desires to enter findings and conclusions in support of the continued maintenance of the moratorium for a period of six months after the

adoption of the moratorium (which would be on or about January 12, 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 following definitions shall apply:

A. **“Exempt Development Permits”** shall include 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 B, which:

1. are not subject to any other moratorium in the City;
2. were determined complete by City staff and submitted to the City on or before the effective date of this Ordinance;
3. propose development or a development activity on property located outside the City height restriction area (see, Subsection B below); and
4. are project(s) located on publicly owned property and which building(s) do not exceed one thousand (1,000) square feet in size
5. include demolition permits, sign permits, and marinas without upland buildings;
6. are building permits associated with development applications which were determined complete by City staff before the effective date of this Ordinance; and

7. are which projects in which building(s) do not exceed 3,500 square feet in size

“Exempt development permits” shall also include any permits meeting all of the above criteria and which involve interior remodeling of existing structures anywhere in the City, as long as the remodeling will not increase the size of the existing structure in footprint, height, bulk and scale.

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) proposed to take place on property located within the City’s height restriction area, submitted after the effective date of this Ordinance. 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 “height restriction area” is that area shown on the City’s official height restriction area map, as adopted in GHMC Section 17.62.020, a copy of which is attached to this Ordinance as Exhibit A.

Section 2. Purpose. The purpose of this moratorium is to allow the City adequate time to hold additional workshops, public hearings and meetings on the possibility of adopting regulations which limit building size in the Height Restriction Zone (attached as Exhibit A hereto, and incorporated herein by this reference).

Section 3. Findings and Conclusions in Support of Moratorium. On August 9 and August 23, 2004, the City Council held a public hearing on the moratorium imposed on July 12, 2004.

A. John P. Vodopich, AICP, City of Gig Harbor Community Development Director, provided the chronology of events and background for the Council’s consideration of building size limitations. Mr. Vodopich explained that the Council has

been interested in this issue since April 2001, and that there have been at least ten related meetings and hearings. On August 11, 2003, the City commissioned a consultant to prepare a report on whether the City should adopt limitations on building size. This report issued on January 12, 2004, and was considered in three Planning Commission/City Council meetings/hearings. After a review of the report, the City Council decided to hold work-study sessions to determine whether building sizes should be limited in the City, and if so, where. These work-study sessions were held on June 1, June 7, June 21, July 6, and July 19, 2004. On June 21, 2004, the City Council decided that the height restriction area was the most vulnerable to new development that would be incompatible with the type of regulations considered during the work-study sessions, and directed the City staff to draft a moratorium ordinance.

On July 12, 2004, the ordinance was presented to the City Council as an emergency measure, and the Council passed it as Ordinance No. 965, to be effective immediately. A hearing was scheduled on Ordinance No. 965, to take place on August 9, 2004.

On August 9, 2004, the Council held the public hearing. No members of the public asked to speak on the issue. A letter was received from an attorney, Traci Shallbetter, dated August 4, 2004, stating that there were "serious concerns" with Ordinance 965. Ms. Shallbetter would not identify her clients.

The City Council decided to continue the public hearing until August 23, 2004, and directed the City staff to draft findings and conclusions to support the maintenance of the moratorium, consistent with the Council's comments at the last workshop session.

B. At the August 23, 2004 public hearing, Steve Osguthorpe, Planning & Building Manager provided the Council with a copy of an e-mail from Mr. Jim Sullivan expressing concern the demolition of structures was not included in the list of proposed exemptions.

C. At the August 23, 2004 public hearing, Dawn Sadler testified that she agreed with the intent of the moratorium but voiced concern that she would not be able to remodel her home.

D. At the August 23, 2004 public hearing, Doug Sorensen testified that the Council needed to consider the intent of the moratorium.

E. After this testimony and staff reports, the City Council discussed the need for the moratorium. First, the Council stated that the workshop sessions on the subject of building size had confirmed their belief that many residents were concerned about the size of structures that could be built under the City's existing regulations. Residents are concerned because of recent development that was permitted under the existing regulations, including the City's Design Review Manual. Many were under the impression that the City's Design Review Manual would have more of an impact in the regulation of height, bulk and scale with regard to new development, but were unhappy with certain new structures. The Council identified the height restriction zone as an area that is vulnerable to massively-sized structures because the height of structures is limited there. It is important to ensure that these low structures are proportionately constructed, which is a difficult task, given that the value of property in the area has increased, and property owners would like to ensure that they can develop their properties to the fullest extent possible.

The City is currently updating the Design Review Manual, and it may be that some of the concerns can be addressed in the amendments to the Manual. However, there is no way to know until the City performs the full analysis, which involves two Council work-study sessions on the subject of the Design Review Manual.

The City Council then directed staff to bring the proposed Ordinance back for further consideration with the inclusion of demolition permits in the list of exemptions as well as an allowance for structures under a certain size.

The County Council considered the revised Ordinance at the September 13, 2004 meeting. At that meeting, Doug Sorenson testified that he opposed the Ordinance but supported a single-family residence exemption. Dawn Sadler submitted a letter from her Attorney, Carolyn A. Lake dated September 13, 2004. Susan Harms testified that the Council should consider special circumstances.

The City Council determined to maintain the moratorium imposed by Ordinance No. 965 for the six-month period allowed by state law, based on the above facts. The Council included an exemption for projects with structures less than 3,500 square feet in size. The Council concluded that maintenance of the moratorium was required for the public health, safety and welfare, given that the majority of the persons testifying at the Building Size Analysis work-study sessions were in favor of building size limitations, and without a moratorium, there was a risk that development applications for the type of development not favored by the public could become vested under the existing codes and constructed, thereby thwarting the efforts of the Council.

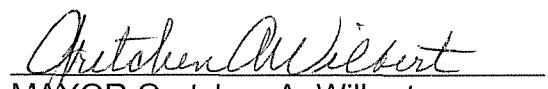
Section 4. Moratorium Maintained. A moratorium shall be maintained on the acceptance of all non-exempt development permit applications for property inside and

outside the City limits for six months, which began on the date of adoption of Ordinance No. 965. The City Council hereby directs the City Clerk to schedule consideration of the moratorium prior to the expiration of this moratorium. The Council shall make the decision to terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be 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 6. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

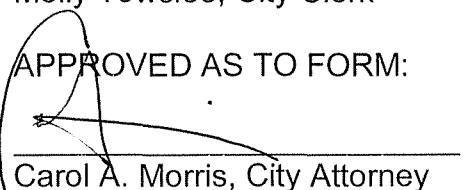
PASSED by the City Council and approved by the Mayor of the City of Gig Harbor, this 13th day of September, 2004.


MAYOR Gretchen A. Wilbert

ATTEST/AUTHENTICATED:


Molly Towslee, City Clerk

APPROVED AS TO FORM:


Carol A. Morris, City Attorney

FILED WITH THE CITY CLERK: 8/18/04

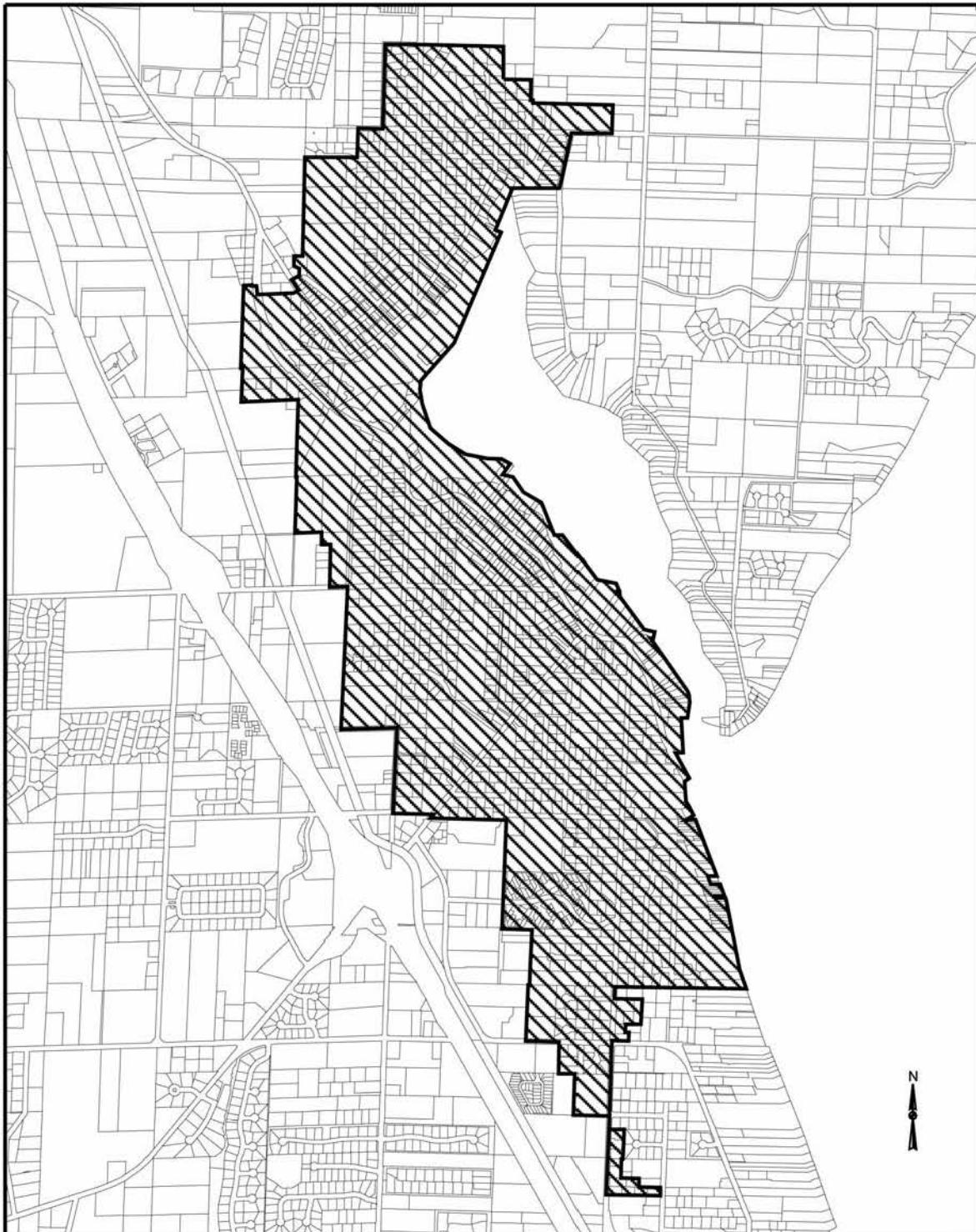
PASSED BY THE CITY COUNCIL: 9/13/04

PUBLISHED: 9/22/04

EFFECTIVE DATE: 9/27/04

ORDINANCE NO.: 968

Exhibit "A"



Height Restriction Area

Exhibit “B”

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.