

ORDINANCE NO. 965

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 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, SUCH MORATORIUM TO BE EFFECTIVE IMMEDIATELY, DEFINING THE APPLICATIONS SUBJECT TO THE MORATORIUM, SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM, ESTABLISHING SIX MONTHS AS THE TENTATIVE EFFECTIVE PERIOD UNTIL THE COUNCIL PUBLIC HEARING ON THE CONTINUED MAINTENANCE OF THE MORATORIUM, AND DECLARING AN EMERGENCY NECESSITATING IMMEDIATE ADOPTION OF A MORATORIUM.

WHEREAS, the City Council of the City of Gig Harbor commissioned a report from an independent consultant on the issue of building size limitations; and

WHEREAS, after the report was issued, the City Council decided to hold public hearings and workshops to obtain testimony and evidence from the public on the issue of building sizes, especially in the height restriction area of the City; and

WHEREAS, while the workshops were underway, the City Council decided that the issue of building size limitations should be addressed while a moratorium is in place, to prevent any property owners from submitting applications for development or re-development under the existing codes; and

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

WHEREAS, the City desires to impose an immediate six-month 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 property within the height restriction area of the City, unless the development is actually a remodel of an existing structure and 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 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.

“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 to continue the process of analyzing the issue of building size limitations without the possibility that developers will flood the City with applications for development under the existing codes. The City Council is currently engaged in a workshop process to determine whether building size limitations should be imposed in Gig Harbor, and if so, on which area(s) of the City. Additional time is needed to fully explore the options available to the City.

Section 3. Moratorium Imposed. The City Council hereby imposes an immediate six-month moratorium on the acceptance of all non-exempt development permit applications for development activities on property located within the height restriction area, as shown in the map attached hereto as Exhibit A. All such non-exempt applications 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 six (6) months after the date of adoption, or at the time all of the tasks described 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 within sixty (60) days of its adoption, or before September 10, 2004. The Council shall hold this hearing on August 9, 2004. Immediately after the public hearing, the City Council shall adopt findings of fact on the subject of this 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 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 7. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon

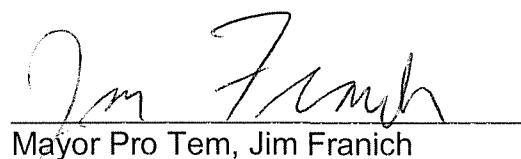
passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum (RCW 35A.12.130). Without an immediate moratorium on the City's acceptance of non-exempt development applications for property, such applications could become vested, leading to 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 vested 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 12th day of July, 2004.

CITY OF GIG HARBOR

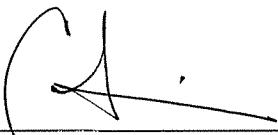


Jim Franich
Mayor Pro Tem, Jim Franich

ATTEST/AUTHENTICATED:

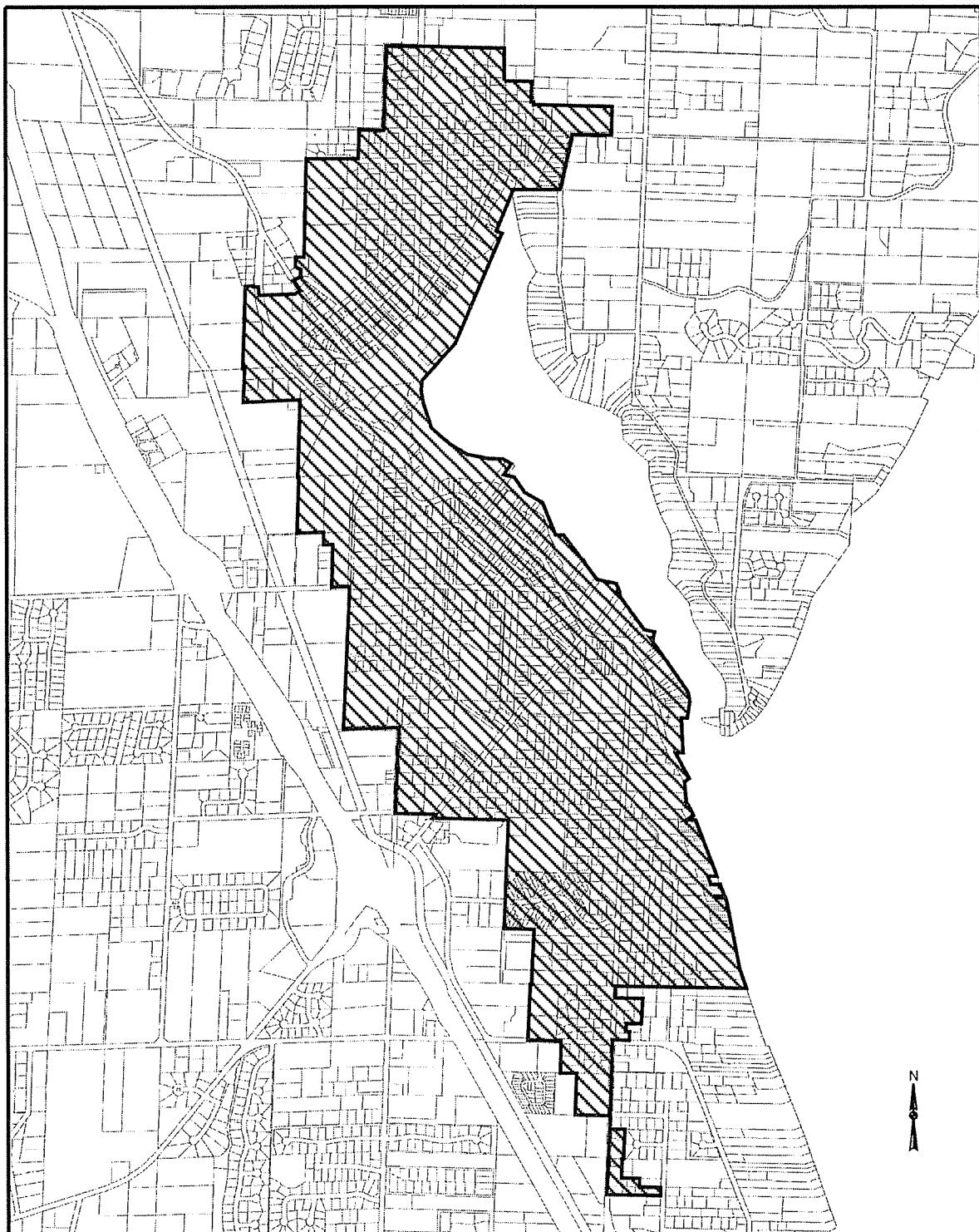
Molly M Towslee
Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney


Carol A. Morris, City Attorney

FILED WITH THE CITY CLERK: 7/12/04
PASSED BY THE CITY COUNCIL: 7/12/04
PUBLISHED: 7/21/04
EFFECTIVE DATE: 7/12/04
ORDINANCE NO:

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.