

ORDINANCE NO. 1383

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, ADOPTED PURSUANT TO RCW 35A.63.220 RCW 36.70A.390, AND RCW 90.58.590; IMPOSING A SIX MONTH MORATORIUM UPON THE RECEIPT AND PROCESSING OF SUBDIVISION APPLICATIONS AND APPLICATIONS FOR BUILDING PERMITS AND OTHER LAND USE DEVELOPMENT APPROVALS ASSOCIATED WITH RESIDENTIAL DEVELOPMENT; SETTING FORTH FINDINGS AND CONCLUSIONS IN SUPPORT OF SAID MORATORIUM; ENUMERATING LIMITED EXCEPTIONS; SETTING A PUBLIC HEARING DATE; AUTHORIZING OFFICIAL INTERPRETATIONS BY THE PLANNING DIRECTOR; PROVIDING FOR SEVERABILITY; DECLARING A PUBLIC EMERGENCY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 35A.63 RCW and Chapter 36.70A RCW, the City of Gig Harbor has established various zoning districts to ensure orderly and appropriate land use development consistent with the City's Comprehensive Plan; and

WHEREAS, in the last five years, the city population has risen by 30% and there are currently 1,200 dwelling units in the permit pipeline; and

WHEREAS, in 2004 the City approved zoning regulations that increased densities in the single-family zones to a minimum of 4 dwelling units per net acre to meet then current Growth Management Hearings Board decisional requirements (Ord. 982); which requirements the Washington State Supreme Court has overturned in subsequent years; and

WHEREAS, the significant growth and development in the City is the cause of widespread concern of City residents expressed in the election of mayor and councilmembers in the 2017 election; and

WHEREAS, the City Council has identified the potential zoning and subdivision code amendment options set forth in Exhibit A hereto, which exhibit is incorporated by this reference herein, as significant issues and as priorities for their study and possible action through amendment of the Comprehensive Plan and/or the development regulations implementing the plan; and

WHEREAS, the City Council is concerned that the rapid pace of residential development will continue and that there is the strong potential for additional development permits to be filed and become vested before the City staff, planning commission and city council can perform the study, public outreach and participation and decision making; and

WHEREAS, the City Council wishes to assess whether the City is growing in a manner consistent with its adopted goals and policies, and within the context of the City's planning requirements and population targets under the Growth Management Act as well as the need for changes to such goals and policies; and

WHEREAS, the City Council finds that the vesting of additional residential land use permit applications prior to the completion of the desired study, public outreach and participation and decision making would be detrimental to the public health, safety and welfare; and

WHEREAS, the City desires to impose an immediate moratorium on the receipt and processing of subdivision applications, as well as most building and other land use permit applications for residential development until the City's Comprehensive Plan

and/or current development regulations are reviewed, evaluated and revised as necessary; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,
DO ORDAIN AS FOLLOWS:

Section 1. Findings. The Gig Harbor City Council hereby makes the following findings in support of the moratorium imposed by this ordinance:

A. The Gig Harbor City Council hereby adopts as findings of fact the recitals set forth above, which are incorporated by reference.

B. The City is authorized pursuant to RCW 35A.63.220, RCW 36.70A.390, and RCW 90.58.590 (shoreline development) to adopt development moratoria for the purpose of preserving the *status quo* while development standards are considered, prepared and enacted.

C. Imposing a temporary moratorium upon the receipt and processing of subdivision applications, building permit applications and other land use development applications associated with residential development as provided herein will serve the public interest.

D. The exceptions established under Section 4 of this ordinance will not materially undercut the effectiveness or underlying purposes of the moratorium imposed herein.

Section 2. Conclusions. Based upon the findings enumerated in Section 1, the City Council hereby concludes as follows:

A. The City possesses the legal authority to impose a moratorium on the receipt and processing of subdivision, building and other land use permit applications associated with residential development as provided herein.

B. The City must adopt an immediate moratorium on the receipt and processing of subdivision applications, and for building permit and other permit applications associated with residential development with the exceptions provided for herein to (1) preserve the *status quo* while the City reviews and revises, as appropriate, its current residential development regulations, goals and policies, and (2) prevent new residential development permit applicants from potentially establishing vested rights inconsistent with the City's future regulatory framework to be considered and adopted during the period of this moratorium.

C. A public emergency exists requiring the moratorium adopted under this ordinance to take effect immediately upon passage.

Section 3. Moratorium Imposed. The City hereby imposes a moratorium upon the receipt and processing of residential subdivision/short subdivision applications and applications for residential building permits and other residential land use development approvals without existing vested development rights under RCW 19.27.095 (building permits), RCW 58.17.033 (short subdivisions and subdivisions) and RCW 36.70B.180 (development agreements), except as set forth in Section 4 of this Ordinance. The scope of the moratorium includes, but is not limited to:

(a) Building permit applications, land use applications, and any other permit and/or approval application for residential development; and

(b) Applications for the subdivision of land, including short subdivisions, subdivisions and binding site plans for residential development.

(c) Applications for site plan review for multi-family, duplex, and single-family development, and for Shoreline Substantial Development Permits for or including residential use(s).

Section 4. Exceptions. The moratorium imposed under Section 3 shall be subject to the following exceptions:

(a) The moratorium shall not apply to prevent the processing and issuance of any permit or approval where the fully complete, valid application for which was filed prior to the effective date of this Ordinance.

(b) The moratorium shall also not apply to:

(i) Permit applications for the repair, restoration, refurbishment, remodel, addition to a “dwelling, single-family” as defined in CHGMC 17.04.300, or replacement of existing residential dwelling units;

(ii) Permit applications for accessory uses and structures associated with existing residential dwelling units;

(iii) Applications for final plats, final PRD, and final short plats as well as any utility extensions and/or other site improvements directly necessary to obtain approval of the final plat, final short plat, or final PRD, where a full complete, valid preliminary plat or preliminary short plat application was submitted prior to this ordinance becoming effective;

(iv) Boundary line adjustments;

(v) Permits for one (1) single-family dwelling on a lot of record in the following zones: Single-Family Residential (R-1), Medium-Density Residential (R-2), Planned Community Development Low Density Residential (RLD), Planned Community Development Medium Density Residential (RMD), Residential and Business District (RB-1), Residential and Business District (RB-2), Waterfront Residential (WR), Waterfront Millville (WM), Waterfront Commercial (WC), Mixed Use District (MUD), Planned Residential Development (PRD); and

(vi) With respect to the shoreline, as provided in RCW 90.58.590, all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time this moratorium is effective.

Public Hearing. The City Clerk is hereby authorized and directed to schedule a public hearing on the moratorium, imposed under Section 3 of this ordinance, to be held during the City Council's regular meeting on March 26, 2018, and to provide notice of said hearing in accordance with applicable standards and procedures. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council may adopt additional legislative findings in support of this ordinance and/or otherwise modify the provisions of the moratorium after said hearing.

Section 5. Interpretative Authority. The City of Gig Harbor Planning Director is hereby authorized to issue official interpretations arising under or otherwise necessitated by this ordinance.

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held 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 7. Declaration of Emergency; Immediate Effective Date; Sunset. The findings and conclusions above are adopted by the City Council in support of the designation of this ordinance as a public emergency ordinance necessary for the protection of the public health, public safety, public property and public welfare. This ordinance shall take effect immediately upon adoption by the Council, by a vote of a majority of the Council plus one, and shall remain effective for six months unless terminated earlier or extended by the City Council.

APPROVED by the Gig Harbor Council this 12th day of February, 2018.

Kit Kuhn, Mayor
MAYOR, KIT KUHN

ATTEST/AUTHENTICATED:

Molly Towslee
CITY CLERK, MOLLY TOWSLEE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
GREG A RUBSTELLO

FILED WITH THE CITY CLERK: 02/12/18
PASSED BY THE CITY COUNCIL: 02/12/18
PUBLISHED: 02/22/18
EFFECTIVE DATE: 02/12/18
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EXHIBIT A

The following is a list of potential zoning and subdivision code amendment options reviewed by the City Council in study session on February 5, 2018 and given priority designation. The listing is not in order of priority and not intended to be an exclusive list of potential zoning and subdivision code amendment options to be considered by the City Council during the pendency of the moratorium.

- A. Downzone Due to Critical Areas: Areas with large-scale, complex and high rank value critical areas could have minimum densities below 4 dwelling units per net acre. This would be supported through critical area consultant evaluations. This could affect property currently zoned RB-2, RB-1, R-2, and R-1.
- B. Amend Net Buildable Area Calculations: The number of homes required in a plat is based on the minimum density multiplied by the net buildable land. Net buildable land is derived from taking the total acreage and removing roads, tidelands, wetlands, bluffs, and ravine sidewalls. Steep slopes, streams, and critical area buffers could be added to the list of areas removed from total acreage. This would yield less units allowed in a project. This would affect all residential projects in any zone with a density minimum or maximum.
- C. Limit Residential Use in Commercial Zones: The C-1, B-2, and DB zoning districts allow all forms of residential dwellings as a conditional use. There are no requirements for mixed use development; therefore, land in these zones can become residential projects provided the CUP criteria is met. In addition, only the C-1 has a maximum density of 7 dwelling unit per acre. There is no maximum density in those other zones. Furthermore, the City's buildable lands analysis and capital facility planning does not assume residential use in these zones. In addition, the B-1, PCD-C, and WC, allow residential uses outside the CUP process.
- D. Limit Density Bonuses Available through PRD and CUP: Through a PRD, a 30% increase in density can be reached by providing more amenities. In the RB-2 zone, a CUP can be used to achieve a 50% increase in density. These density bonus could be reduced or removed. This would affect R-1, R-2, R-3, RLD, RMD, and RB-2 zones.
- E. Reduce Minimum Densities: The minimum density in most residential zones is 4 dwelling units per acre. The City could consider reducing that minimum even without the presence of critical areas to provide a better transition between existing residential development and new residential developments.
- F. Reduce Maximum Densities: Similar to reducing minimum densities or limiting density bonuses, the Council could consider reducing the maximum allowed density.