

## **RESOLUTION NO. 779**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE DENIAL OF COMP 08-0001 AS PART OF THE 2008 COMPREHENSIVE PLAN ANNUAL CYCLE.**

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**WHEREAS**, the Growth Management Act prevents the processing of comprehensive plan amendments more than once a year; and

**WHEREAS**, the City of Gig Harbor has adopted regulations for the processing of comprehensive plan amendments in chapter 19.09 GHMC; and

**WHEREAS**, the City of Gig Harbor processed 9 separate amendments to the Comprehensive Plan in 2008; and

**WHEREAS**, under GHMC 19.09. the City has adopted a procedure for processing amendments to the Comprehensive Plan, which includes specific criteria for said amendments (19.09.170); and

**WHEREAS**, MP8 LLC/Pioneer & Stinson LLC filed an application for an amendment to the Comprehensive Plan (COMP 08-0001) to amend the Comprehensive Plan Map for 4.67 acres of land located north of Grandview Street between Pioneer Way and Stinson Avenue from Residential Low to Residential Medium to allow for the development of a mixed use commercial building or buildings and 8 duplexes; and

**WHEREAS**, on April 28, 2008, the City Council evaluated the comprehensive plan amendment applications submitted for the 2008 annual cycle, and held a public hearing on such applications;

**WHEREAS**, the Planning Commission conducted a public hearing to consider COMP 08-0001 on September 4, 2008 and on September 18, 2008 voted to deny the requested amendment; and

**WHEREAS**, the City Council conducted a public hearing on the 2008 Amendments to the Comprehensive plan on October 13, 2008, and also considered the amendments at their meetings on October 27, 2008, November 10, 2008 and November 24, 2008 and also conducted a public hearing to consider the Development Agreement associated with COMP 08-0001 on November 24, 2008; and

**WHEREAS**, there was considerable testimony regarding the application for COMP 08-0001; and

**WHEREAS**, GHMC 19.09.180 requires that all comprehensive plan amendments that are rejected be addressed in a resolution,

Now, Therefore,

**THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:**

Section 1. After consideration of the materials in the file associated with COMP 08-0001, staff presentation, the Planning Commission recommendation, the City's Comprehensive Plan, criteria for approval found in Chapter 19.09 GHMC, applicable law, and public testimony, the City Council hereby denies the change to the land use designation for 2 acres of property located at 3700 Grandview Street from a Residential Low (RL) designation to a Residential Medium (RM) designation as identified in Exhibit A, attached to this Resolution. The Planning Commission recommended denial of the proposed amendment in that it was their opinion that the request was not consistent with the applicable criteria found in GHMC 19.09.170. Testimony before the City Council has not demonstrated that the Planning Commission's recommendation was incorrect. Based upon the information submitted, the City Council concludes that the application is inconsistent with at least two of the criteria found in 19.09.170. Criteria 19.09.170 E. states that "the proposed amendment must be consistent with the goals, policies and objectives of the comprehensive plan." The requested amendment, in its current form is inconsistent with the goals and policies of the Community Design Element of the Comprehensive Plan, in that the proposed scale of the two mixed use commercial buildings (2.5 stories and 34,000 s.f and 43,000 s.f.) would be substantially larger than surrounding structures. Criteria 19.09.170 G. states that "in the case of an amendment to the comprehensive plan land use map, that the subject parcels being redesignated are physically suitable for the allowed land uses in the designation being requested, including compatibility with existing and planned surrounding land uses and the zoning district locational criteria contained within the comprehensive plan and zoning code." While the site might be physically suitable for the mixed use commercial development proposed by the applicants, testimony before the Council established that the amendment, as currently proposed would result in a development that would be incompatible with the surrounding land uses. The burden of proof for demonstrating consistency with the applicable criteria of 19.09.170 is on the applicants proposing amendments to the Comprehensive Plan. The City Council concludes that burden has not been met. The Council's denial is based upon the following findings:

## **FINDINGS:**

- a. When this amendment was originally submitted, the request was to change 4.67 acres from Residential Low to Residential Medium to allow the development of 7 duplexes on the northerly 2.67 acres of the property and the development of one or more mixed use commercial buildings on the southerly 2 acres of the property.
- b. The Planning Commission after several work study sessions and a public hearing voted to recommend denial of the amendment. As stated in the Planning Commission's Notice of Recommendation dated October 2, 2008 the Planning "Commission found that the request was inconsistent with the goals, policies and objectives of the comprehensive plan." In terms of the proposed duplexes, the Commission felt that changing the northerly portion of the site to Residential Medium to allow a rezone to R-2 would be inconsistent with Land Use Element Policy 2.2.2. This policy seeks to define and protect the integrity of small planning areas, particularly residential neighborhoods. The construction of duplexes adjacent to existing single family residences could have an adverse impact upon the single family homes. The commission further felt that duplexes could create a precedent for similar requests further down the hill to the north. The Planning Commission also felt that the proposed mixed use development on the southerly half of the site was inconsistent with the goals, policies and objectives of the Comprehensive Plan. The applicants indicated that if the Land Use Map was changed to designate the site Residential Medium, they intended to rezone the property RB-2. As previously stated, the site is currently zoned RB-1. There are two major differences between RB-1 and RB-2. The RB-2 zone allows multiple family housing and the RB-1 only allows single family. The RB-1 zone has a maximum building size of 5,000 square feet and the RB-2 zone has no maximum size limit. The applicant proposes the construction of one or more structures up to 3 stories in height. The goals and policies of the Community Design Element of the Comprehensive Plan discuss the importance of scale as it relates to the surrounding area. The Commission was concerned that a change to the Land Use Map that led to the rezoning of the site to RB-2 could adversely affect the neighborhood's scale, which for the most part consists of single story and 1 ½ story commercial buildings.

There are several policies in the Comprehensive Plan that discuss the

importance of retaining existing vegetation. The applicants indicated that they would retain existing vegetation as required under the existing zoning regulations. The Planning Commission felt they could not evaluate the retention of existing vegetation in that the plans submitted by the applicant did not provide conceptual building locations, parking or vegetation retention detail.

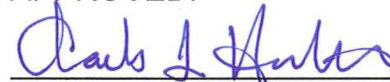
Criteria 19.09.170 G. requires that in the case of a comp plan land use map amendment, the subject parcel must be physically suitable for the allowed uses in the designation requested, including compatibility with existing and planned surrounding land uses. Testimony at the Planning Commission's public hearing brought into question whether the proposed land use map amendment would result in a development that would be compatible with the surrounding uses which are predominately single family homes to the north and east. The Planning Commission concluded that the future large multiple story building or buildings would not be compatible with the surrounding land uses.

- c. When the amendment was presented to the City Council at their October 13, 2008 public hearing, the applicants had amended the application to remove the northerly 2.67 acres from the request. They proposed that the application only include the southerly 2 acres of the site. This was the portion of the site that included the mixed use commercial buildings. A revised site plan was submitted that showed the development of a 7 lot single family plat on the northerly 2.67 acres. Further versions of the proposed site plan were submitted at the October 27, November 10 and November 24 Council meetings. In addition, revised Development Agreements were submitted at each of the Council meetings.
- d. Testimony before the City Council expressed concern over the impacts to the surrounding properties due to the larger size of buildings (2.5 stories and 34,000 s.f and 43,000 s.f.) proposed by the applicants in comparison to the existing structures within the area. Concern was also expressed regarding the loss of trees on the site and the lack of specificity of which trees would be retained. Another issue discussed was the precedent this amendment would set for further commercial "creep" down the hill into the View Basin.
- e. After conducting two public hearings, the City Council members expressed several concerns relative to the application at their November 24, 2008 meeting. First, concern was expressed that the application before the Council on November 24 was very different from the application reviewed by the Planning Commission when they were formulating their recommendation to the City Council. Several Council


members expressed the belief that the changes proposed by the applicants should have been reviewed by the Planning Commission. The Council also noted that the site is one of the "gateways" into the City and as such, the scale of buildings on the site should be appropriate and compatible with surrounding properties. It was noted by the Council that there is other property available within the City that allows the larger mixed use commercial buildings such as the applicants propose. The Council expressed concern that there hasn't been any change affecting the property that justifies changing the Comprehensive Plan Land Use Map from Residential Low to Residential Medium with a subsequent rezoning of the property to RB-2. It was noted that the RB-1 District is intended to act as a transition between higher intensity commercial development and single family homes and that the existing RB-1 designation fulfills that intent. The Council expressed concern regarding the number of times the development proposal had changed since it was submitted and that the public may not have had the opportunity to comment on the revisions. Finally, it was noted that the limitations on future development of the site as proposed by the applicant through a development agreement could be in jeopardy if the change to Residential Medium is made and the development agreement expires at the end of 5 years.

RESOLVED by the City Council this 8th day of December, 2008.

APPROVED:

  
Charles L. Hunter, Mayor

ATTEST/AUTHENTICATED:

  
Molly M. Towslee, City Clerk

APPROVED AS TO FORM;  
OFFICE OF THE CITY ATTORNEY:

BY: \_\_\_\_\_

FILED WITH THE CITY CLERK: 12/03/08  
PASSED BY THE CITY COUNCIL: 12/08/08  
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