

RESOLUTION NO. 455

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, CONDITIONALLY APPROVING THE SITE PLAN FOR CHAPEL HILL PRESBYTERIAN CHURCH, GIG HARBOR FILE NO. SPR 95-01 AT 4814 ROSEDALE STREET, GIG HARBOR.

WHEREAS, Chapel Hill applied for three approvals from the City in order to construct a development at 4814 Rosedale Street in Gig Harbor; and

WHEREAS, the development required a height variance for the sanctuary and chancel of 24.5 feet, which was approved by the Hearing Examiner under Gig Harbor File No. VAR 95-01 on June 1, 1995; and

WHEREAS, the development also required a conditional use permit which was conditionally approved by the Hearing Examiner under Gig Harbor File No. CUP 95-01 on June 1, 1995 and modified upon reconsideration on June 25, 1995; and

WHEREAS, the development also required site plan approval, and the Hearing Examiner recommended that the approval be granted subject to three conditions, under Gig Harbor File No. SPR 95-01, dated June 1, 1995, which was modified on June 25, 1995 to eliminate the final condition; and

WHEREAS, The City Council rejected the Hearing Examiner's recommendation to conditionally approve the site plan at the Council's regular meeting of July 24, 1995, and determined to hold its own public hearing on the matter; and

WHEREAS, the applicant requested that the Council public hearing be scheduled so that all of the City Council members could be present, and so agreed to set the date for the public hearing for September 11, 1995; and

WHEREAS, on September 11, 1995, the City Council held a public hearing on SPR 95-01; now, therefore,

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

Section 1. The City Council makes the following findings with regard to the site plan application of the Chapel Hill Presbyterian Church:

A. The following portions of the Staff Report dated April 19, 1995 are hereby adopted by reference and supported by the testimony and evidence presented at the public hearing: Sections I, II, III(1), IV, V, VI, VII(1), VII(2) and VII(3).

B. The Council considered the criteria for approval of the site plan, as set forth in GHMC 17.96.030(B).

C. The Council heard testimony from the following persons:

1. Steve Osguthorpe, representing the City Planning Department, who outlined the information in the staff report dated September 11, 1995;

2. Tom Morfee, testified by addressing vegetative buffers and the precedent setting nature of the development;

3. William Linn, attorney for the applicant, who addressed the following aspects of the development and its height, bulk and scale:

- a. the large lot mitigates the bulk and scale;
- b. the lot is heavily treed and provides a buffer to the adjacent residential development;
- c. the lot contains a wetland which provides an additional buffer to the adjacent residential development;
- d. the development is compatible with the neighboring residential development;
- e. the impacts of the development are oriented towards the freeway;
- f. the best evidence of the development's compatibility with the neighboring property are the letters of support from the neighbors;
- g. the development is not visible from the residential portions of the neighborhood;
- h. the development/property is set back 700 feet from the freeway and from the freeway only the trees are visible;
- i. the law requires that the City be flexible when permitting this development due to the possible infringement on First Amendment freedom of religion constitutional rights.

4. Dan Barscher, architect for the applicant, testified on the following aspects of the development;

- a. the evolution of the design of the church;
- b. the part topography played in the siting and design of the church;
- c. the necessity for the "direct link" between the church building and the other structures on the church campus;
- d. the background behind the Church's decision to provide the

buffers;

- e. how the balcony in the portion of the structure subject to the variance is necessary for additional seating, acoustics and to improve sight lines.

5. Mark Toon, Chapel Hill pastor, applicant, testified on the following aspects of the development:

- a. the need for a new worship center because the current structure only seats 250 people;
- b. the overcrowded situation at the church now, as people are seated in the gym;
- c. the present need for a structure to seat 1,500 people;
- d. the Church's willingness to provide the structure for the community's use as a gathering place for "bona fide" community events.

6. Kathy Kegle, neighbor, testified on the following aspects of the development:

- a. that she lives on a private street near the church and thinks that congregants will use the private street for fast access to and from the church if there is no way to restrict such access;
- b. her desire that the Church block the access, and states that otherwise, the Church has been a good neighbor.

7. Bill Reed, testified that the development was a good one, and that he was in support of the site plan approval.

8. Joseph Meyers testified that the Church was not asking for a typical variance in which only the applicant's needs were considered. In this situation, the variance benefits a large number of people, and he recommended that the Council approve the development.

9. Exhibits A through Z and AA through LL were admitted into evidence.

Section 2. Based upon the above findings, the City Council makes the following conclusion and decision:

A. Conformity with Criteria for Site Plan Approval.

1. GHMC Section 17.96.030(1): Compatibility with the City's Comprehensive Plan.

The site plan application is not compatible with the City's comprehensive plan. However, the Hearing Examiner has granted a variance to allow the Church to construct a portion of the church structure to a height of 59'6". The Hearing Examiner's decision on the variance is final.

The City Council is also aware of the legal restrictions on the City's regulation of the Church's exterior. Two Washington Supreme Court cases address the issues raised by the Church's planned development and the permissible extent of the City's regulation: Sumner v. First Baptist Church, 97 Wn.2d 1, 639 P.2d 1358 (1982); First Covenant Church v. Seattle, 120 Wn.2d 203, 840 P.2d 174 (1992). The City Council's decision to conclude that the site plan may be approved even though not consistent with the site plan approval criteria and the City's

comprehensive plan is consistent with the Court's decision in both of these cases, and will not set a precedent for other applications not involving churches or First Amendment rights to free exercise of religion.

2. GHMC Section 17.96.030(2): Compatibility with the surrounding buildings' occupancy and use factors.

The structure as proposed is compatible with the surrounding buildings and uses. The landscaping, buffers and wetlands all serve to ensure compatibility with surrounding residential uses. Although one neighbor raised concerns with regard to congregant's use of a private road, the City does not have the authority to require that the Church restrict access on a private road to ensure that members of the public are excluded. This is a matter to be resolved by the private property/easement owners.

3. GHMC Section 17.96.030(3): All relevant statutory codes, regulations, ordinances and compliance with the same.

The Council concludes that the site plan as submitted, together with the conditional use permit and variance approved by the Hearing Examiner, complies with applicable codes.

DECISION

The City Council hereby approves SPR 95-01, subject to the following conditions:

1. *The project shall meet all setback requirements of the R-1 zoning district;*

2. *The separate parcels shall be combined into one lot of record or a binding site plan shall be recorded which ties the parcels together.*

3. *Fire flow must be provided to within 150 FT of all portions of the building in accordance with the Section 10.401, 1991 Uniform Fire Code. Fire hydrants and water mains may need to be extended up the existing road to the North Creek Lane right of way to provide the necessary fire protection.*

4. *Fire flow must be provided to the building in accordance with the Section 10.401, 1991 Uniform Fire Code (See Appendix III-A & B):*

Portions of buildings which are separated by one or more four-hour area separation walls constructed in accordance with the Building Code, without openings and provided with a 30-inch parapet, are allowed to be considered as separate fire areas in accordance with Appendix III-A, 1991 UFC. A complete fire flow analysis must be provided by the Civil Engineer who will be designing the site utility system.

5. A complete code analysis will be required to determine if auto-fire sprinkler systems and other fire protection will be required. Additional information will be required, such as: Use classifications of all rooms and areas, building type of construction, area separation walls and their types of construction
6. Access must be provided to all areas in accordance with the Washington State Standards for Access. Access must also be provided in accordance with the Federal ADA Standards. A private walk must be provided from the public sidewalk to the main entrance of the building. Accessible parking stalls must be provided in accordance with the Washington State Standards for Access.
7. Roadway emergency vehicle access must be provided around the building complex with maximum grades of 15%, minimum inside radius of 20 feet with a minimum outside radius of 45 feet and a minimum width of 24 feet.
8. A fire resistant roof will be required in accordance with Chapter 32, 1994 UBC. The existing shake roof must be replaced with an approved fire resistant roof.

9. If the main entrance to the site is being changed to Skansie Ave. the address will need to be revised to **7700 Skansie Ave.** The address numbers must be posted at the entrance sign. Use contrasting letter colors to the background. Size of letters to be readily visible from Skansie Ave.
10. Fire lanes must be signed and painted to maintain required access. Fire hydrants must be maintained accessible. Paint curbs and areas in front of fire hydrants.
11. The existing fire hydrant on the northeast corner of the property is not accessible as shown on the site plan. Relocate or make accessible.
12. Due to the height of the new sanctuary fire department access and staging areas are required and a complete review by Fire District No. 5 is required.
13. Fire department knox box, alarm panels and occupant notification (announcing system) are required.

RESOLVED by the City Council this 25th day of September, 1995.

APPROVED:

MAYOR PRO TEM, CORBETT PLATT

ATTEST/AUTHENTICATED:

CITY ADMINISTRATOR, MARK HOPPEN

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____

FILED WITH THE CITY CLERK: 9/10/95
PASSED BY THE CITY COUNCIL: 9/25/95