

RESOLUTION 1301

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, REMOVING PIERCE COUNTY ASSESSOR PARCEL NUMBERS 0221068037, 0221068036, 0221064172, 0221064173, 0221064174, 0221064177, 0221068039, AND 0221068040 FROM THE HEIGHT RESTRICTION AREA OVERLAY DISTRICT

WHEREAS, the city received a complete application to amend the height restriction overlay district to exclude Pierce County parcel numbers 0221068037, 0221068036, 0221064172, 0221064173, 0221064174, 0221064177, 0221068039, and 0221068040; and

WHEREAS, the current Comprehensive Plan land use designation for Pierce County parcel numbers 0221068037, 0221068036, 0221064172, 0221064173, 0221064174, 0221064177, 0221068039, and 0221068040 within the city is Residential Low and the current zoning district for these parcels is Single-Family Residential (R-1); and

WHEREAS, Pierce County parcel numbers 0221068037, 0221068036, 0221064172, 0221064173, 0221064174, 0221064177, 0221068039, and 0221068040 are within the height restriction area overlay district; and

WHEREAS, the existing height restriction overlay district designation restricts structure heights to 16 feet; and

WHEREAS, the height restriction overlay district is a zoning district which implements the height restriction overlay; and

WHEREAS, September 7, 2023, Ordinance 1516 was adopted providing interim zoning controls pertaining to site specific rezones and height restriction area variances, amending chapters 17.62, 17.100, and 19.01 of the Gig Harbor Municipal Code (GHMC); and

WHEREAS, the proposed rezone is a Type IV action as defined in GHMC 19.01.003(B) for Site specific zoning map amendments; and

WHEREAS, a final decision for a Type IV application shall be rendered by the City Council after a recommendation from the Hearing Examiner as per GHMC 19.01.003(A); and

WHEREAS, the Hearing Examiner held a public hearing on the site specific rezone on November 7, 2023, and recommended approval; and

WHEREAS, following the November 7, 2023, public hearing, the hearing examiner provided their recommendation of approval of the proposed amendment removing Pierce County parcel numbers from the height restriction overlay district subject to two conditions;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gig Harbor:

Section 1. Criteria. Zoning map amendments are addressed in Chapter 17.100 of the Gig Harbor Municipal Code. Applications for amendments to the zoning map (which include, but are not limited to, site specific rezones) may only be approved if all of the following criteria are satisfied:

- A. The application for the zoning map amendment must be consistent with and further the goals, policies and objectives of the comprehensive plan and Chapter 17.12.015 GHMC;
- B. The application for the zoning amendment must further or bear a substantial relationship to the public health, safety and general welfare;
- C. No substantial detrimental effect will be caused by the granting of the application for the amendment;
- D. The proponents of the application have the burden of proof in demonstrating that conditions have changed since the original zoning or original designation for the property on the zoning map.

Section 2. Findings. The city council considered all the relevant records and makes the following findings in relation to the criteria of approval in Chapter 17.100.035 GHMC:

- A. The Comprehensive Plan has designated this area Residential Low. The proposed height restriction area overlay map amendment is consistent with the Comprehensive Plan as the height restriction overlay map amendment does not amend the land use or zoning designation. While the site-specific rezone application does not propose development of the site, approval of the site's proposed use for the lots within the project area is single-family residential. The subject lots will maintain the natural site character through the preservation of critical areas, their buffers, and the natural drainage way and increased height will not allow

any use that is not already permitted in the immediate vicinity or R-1 district.

- B. Ordinance 537 adopted the height restriction area overlay map in 1988, and stated that where strict compliance is unrealistic, it is in the interest of public health, safety and welfare to adjust zoning regulations to provide greater flexibility to building size or height. The proposed height restriction area overlay map amendment will provide flexibility for structure height and a range of housing design within the area. The added height and living area provided by the height restriction area overlay map amendment may allow room for larger families or intergenerational living arrangements.
- C. The conditions for the adjacent properties to the north, south, and east have not changed despite the change in topography for the subject site. Staff conducted a site visit on October 19, 2023 and confirmed that the adjacent properties to the south and east are uphill by at least 16 feet, the properties to the north are downhill of the subject site and have views of Gig Harbor Bay to the north. The properties to the west and southwest did not have views prior to development, and the change in topography for the subject site does not change this condition.

Any development on the subject site would not have an impact on the views for any of the adjacent properties. The height restriction area overlay map amendment does not allow any use or height allowance that is not already permitted elsewhere in the R-1 district. The applicant has provided photographs taken on site which demonstrate that the subject site does not have a view of Puget Sound, the Tacoma Narrows, or Mount Rainier. The subject site is also downhill of its immediate neighbors and would not obscure any views.

The proposed height restriction area overlay map amendment is not specific to a particular structure or design. The applicant will need to apply for engineering, stormwater, and building permits to allow construction.

- D. As discussed in the hearing examiner staff report, a number of changes have taken place since the original annexation and zoning of the subject sites in 1965 and 1990, respectively. The zoning of the subject sites in 1965 is unclear, and it does not appear there was a height restriction prior to the 1988 adoption of Ordinance 537, which restricted structure heights to 25 feet. In 1996, Ordinance 710 restricted all structures within the height restriction area overlay to 16 feet, with exceptions for planned

unit developments and planned residential developments; this ordinance also created a height restriction area overlay amendment procedure. In 2010, Ordinance 1194 amended the height restriction area overlay amendment procedure from a Type IV to a Type III procedure.

The initial application was deemed complete on April 11, 2023. The project was reviewed by staff and comments were sent on May 18, 2023. The applicant resubmitted their application materials on June 13, 2023. On August 9, 2023 staff deemed the application ready for a public hearing; subsequently scheduling and noticing a hearing for September 5, 2023. However, the Director noticed ambiguities with the HRA amendment process outlined in GHMC 17.62.040 and subsequently cancelled the hearing.

The Director found the height restriction area overlay amendment procedure adopted by Ordinance 710 to be improper. A proposal to remove a site from an adopted zoning overlay should be considered a site-specific rezone, subject to the amendment process in GHMC Chapter 17.100, and more specifically, the criteria within GHMC 17.100.035. Based on these findings, the Director proposed interim Ordinance 1516 which was adopted on September 7, 2023.

The intent of the height restriction area overlay district is *to establish standards for those properties located inside the Gig Harbor view basin where decreased building height shall be required. This is intended to be a limitation on height so as not to restrict views from adjacent properties* (GHMC 17.62.010). The application materials demonstrate that the subject parcels never were within a viewshed and do not have the potential to obstruct the view from lots in the vicinity (Exhibit A).

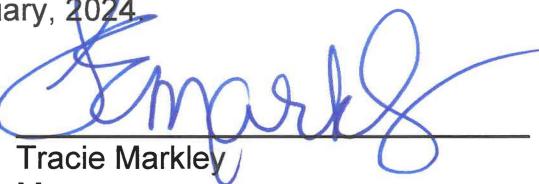
Additionally, the approved plat that created the Cottages at Rosedale included substantial changes to the topography of the subject and surrounding properties. The resulting topography substantially reduced any impact from building heights on surrounding views. Based on the original intent of the height restriction area overlay district, and subsequent changes to the topography affecting the subject site, staff finds that there has been a change in conditions since the original designation for the property which warrant an amendment to the height restriction area overlay district.

Section 3. Approval of the amendment to the city's zoning map. The city council approves the application to amend the city's zoning map removing Pierce County parcels 0221068037, 0221068036, 0221064172,

0221064173, 0221064174, 0221064177, 0221068039, and 0221068040 from the height restriction area overlay district subject to the following conditions:

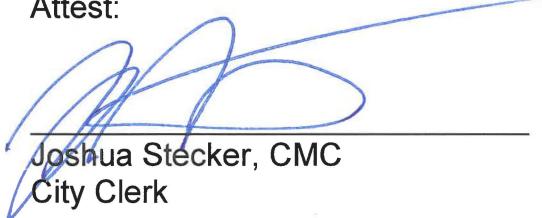
1. The maximum allowable height of any structure must conform with the performance standards of the underlying zoning, Single-Family Residential (R-1). At the time of this decision the maximum allowable height is 35 feet.
2. A height survey must be performed before and after the construction of any structure.

ADOPTED by the City Council of the City of Gig Harbor at a regular meeting thereof, held this 12th day of February, 2024



Tracie Markley
Mayor

Attest:



Joshua Stecker, CMC
City Clerk