

ORDINANCE NO. 1131

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE PROCEDURES FOR PLANNED RESIDENTIAL DEVELOPMENTS (PRD) AND PLANNED UNIT DEVELOPMENTS (PUD) TO CLARIFY THAT PRD DENSITY BONUS PROVISIONS MUST BE UTILIZED IN ORDER TO INCREASE DENSITY IN A PRD AND THAT PUD FLOOR AREA BONUS PROVISIONS MUST BE UTILIZED IN ORDER TO INCREASE GROSS FLOOR AREA IN A PUD; ADDING CLARIFICATION TO THE TYPES OF USES ALLOWED IN A PRD; CLARIFYING FACTORS THAT MUST BE ELIMINATED FROM THE CALCULATION OF OPEN SPACE IN A PRD AND PUD; CLARIFYING WHERE IN A PRD AND PUD OPEN SPACE MAY BE LOCATED; CLARIFYING THE NEED FOR A REZONE APPLICATION WHEN THE APPLICANT SEEKS TO CHANGE THE USE FROM THE UNDERLYING ZONE IN A PRD AND PUD; ADDING PROCEDURES FOR AMENDMENT OF THE CITY'S OFFICIAL ZONING MAP TO DESIGNATE APPROVED PRD'S AND PUD'S; REMOVING THE REFERENCES TO PRD ALLOWED DENSITIES IN THE ZONING DISTRICT CHAPTERS, AND; CORRECTING REFERENCES TO PRD'S IN THE PUD CHAPTER; AMENDING GIG HARBOR MUNICIPAL CODE SECTIONS 17.89.050, 17.89.070, 17.89.100, 17.89.110, 17.90.030, 17.90.070, 17.90.080, 17.90.090, 17.24.050, 17.46.040 AND 17.48.040; ADDING NEW SECTIONS 17.89.130 AND 17.90.130.

WHEREAS, planned residential developments (PRD) and planned unit developments (PUD) constitute rezones, or "floating zones" which, when approved, are amendments to the zoning district by reclassifying the property to a PRD or PUD designation; and

WHEREAS, the procedures in GHMC Section 17.89.100 for a PRD allow the density to be increased in a PRD under certain circumstances; and

WHEREAS, although the language in GHMC Section 17.89.100 specifically restricts use of density bonus provisions to the circumstances set forth in GHMC 17.89.100(A)(1) and (2), at least one developer interpreted this language to mean that it did not apply if the underlying zone allowed an increase in density through a different procedures; and

WHEREAS, the council desires to confirm existing law regarding the establishment of PRD's and PUD's as rezones, given that any development approved through the PRD or PUD process does not conform to the development standards in the underlying zone; and

WHEREAS, the Council desires to clarify that the procedures applicable to a particular zoning classification apply to development conforming to that zoning classification, and not to development approved under a PRD or a PUD; and

WHEREAS, the Council desires to clarify that the density bonus provisions of GHMC Section 17.89.100 apply regardless of any other procedures in the underlying zone for increasing density; and

WHEREAS, the Council desires to clarify what factors must be eliminated from the calculation of open space in a PRD and a PUD; and

WHEREAS, the Council desires to clarify where in a PUD and PUD open space may be located and whom shall maintain the required open space; and

WHEREAS, to prevent any future confusions, misinterpretations, or lawsuits regarding interpretation of the PUD procedures, the Council desires to clarify that the maximum gross floor area bonus provision in GHMC Section 17.90.090 applies regardless of any other procedures in the underlying zone for increasing floor area, including the procedure for a variance; and

WHEREAS, the fact that PUD's and PRD's are rezones is further clarified by the addition of new provisions requiring amendment of the City's Official Zoning Map after approval of a final PUD and final PRD; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on April 2, 2008; and

WHEREAS, the City Community Development Director forwarded a copy of this Ordinance to the Washington State Department of Trade and Community Development on October 9, 2007, pursuant to RCW 36.70A.106; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on May 27, 2008; and

WHEREAS, on June 9, 2008, the City Council adopted this Ordinance at second reading during a regular City Council meeting; Now, therefore;

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,
ORDAINS AS FOLLOWS:

Section 1. Section 17.89.050 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.89.050 Types of uses permitted.

The following uses are permitted in a PRD:

A. Those primary, accessory and conditional uses permitted in the underlying zoning district. Density is not a use, and the fact that a conditional use permit may allow additional density in a particular zone does not apply to a PRD, in which density may only be increased through the procedures set forth in GHMC Section 17.89.100.

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Section 2. Section 17.89.070 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.89.070 Criteria for approval of preliminary PRD application.

* * *

~~C. If the PRD requires a rezone(s), such rezone(s) shall be approved before or concurrently with the PRD approval.~~ If the PRD applicant seeks to change the use from that allowed in the underlying zone, a separate application for a rezone shall be submitted to be processed concurrent with the PRD application, but the rezone must be approved in order for the PRD to be approved.

Section 3. Section 17.89.100 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.89.100 Density bonus.

A. The density may be increased in a PRD, as set forth in subsection B, ~~over that permitted in the underlying zone but only if:~~ only under the following circumstances: (1) the increase must be consistent with the underlying comprehensive plan designation for the property; and (2) the density increase will ~~must~~ not exceed 30 percent over the smallest amount of density allowed outright in the underlying zone. If, in any underlying zoning classification, a larger amount of density is allowed or there is a procedure allowing density to be increased, neither shall apply in a PRD. The procedure in this Section constitutes the exclusive method to increase density in a PRD. A variance from the density in a PRD (whether such variance would constitute an increase or decrease in the density) shall not be allowed. Density calculations shall be made as set forth in Chapter 17.05 GHMC.

B. Density bonuses may be allowed only as follows:

1. A 10 percent increase in density towards the 30 percent maximum increase for the following additional open space. a. In addition to the satisfaction of the standards in GHMC Section 17.89.110 for open space; and b., the PRD shall demonstrate the provision of open space exceeding by at least 30 percent of the minimum required by the Design review Manual or the existing zoning code (whichever is greater); or after December 31st, 2009, at least 30 percent more open space than the level of service standards for open space and active recreational areas in the capital facilities element of the adopted Gig Harbor comprehensive plan: 40 percent increase Common open space associated with density bonus must be freely accessible to the general public, identified on the face of the plat, and clearly identified by on-site signage;

2. A 10 percent increase in density towards the 30 percent maximum increase for the preservation of natural features. Preservation of a desirable natural feature that would not otherwise be preserved such as, but not limited to, an unregulated wetland, stream corridor, unique geological feature, substantial over story vegetation: 40 percent increase;

3. A 10 percent increase in density towards the 30 percent maximum increase for the preservation of scenic vistas. Preservation of a scenic vista corridor(s) within the subject property and off-site and accessible to the general public rather than private property owners: 40 percent increase;

4. A 10 percent increase in density towards the 30 percent maximum increase for design of a stormwater treatment system as an amenity. A stormwater treatment (retention/detention) facility is also designed as a visual aesthetic and physically accessible amenity for the enjoyment of the public.: 40 percent increase;

Section 4. Section 17.89.110 of the Gig Harbor Municipal Code is amended to read as follows:

17.89.110 Open Space.

In order to be approved, a preliminary PRD application must demonstrate that all of the following performance standards are met:

A. Common open space shall comprise at least thirty percent (30%) of the gross area of the PRD, and shall be used as a recreational, park or environmental amenity for collective enjoyment by ~~occupants of the development~~ the property owners within the PRD. Common open space shall not include public or private streets, driveways, parking areas, or the required setbacks, required perimeter setbacks, or required yards for buildings or structures. ~~provided however, that up to thirty (30) percent of the required open space may be composed of open space on contiguous privately owned properties reserved by easement or covenant to assure that the open space will be permanent.~~ A minimum of seventy percent (70%) of the required common open space shall be located on separate open space tracts shown on the face of the plat. A maximum of thirty

percent (30%) of the required common open space may be comprised of open space on contiguous residential lots within the PRD. The face of the PRD and the Covenants, Conditions and Restrictions shall include designation of these required common open space areas as open space, as well as the requirements for the property owners within the PRD to maintain such open space, unless arrangements are made pursuant to GHMC 17.89.110(G)(2).

* * *

Section 5. A new section 17.89.130 is hereby added to the Gig Harbor Municipal Code to read as follows:

17.89.130. Recording by amendment to Official Zoning Map.

All changes of the district boundaries (from the underlying zoning classification to PRD) shall be made concurrent with the decision approving the final PRD. An ordinance shall be prepared and submitted to the City Council for approval, which will direct the Planning Director to make the necessary changes to the City's Official Zoning Map and to file the same with the City Clerk.

Section 6. Section 17.90.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.90.030 Permit application procedures.

* * *

F. Extensions. Knowledge of the expiration date and initiation of a request for an extension of time is the responsibility of the applicant. Requests for an extension of time must be submitted to the planning department at least 30 days prior to the expiration of ~~PRD~~ PUD approval. The planning department shall schedule the request for extension for public hearing before the hearing examiner. One extension is the maximum to be granted and it shall be for no more than one year and the ~~PRD~~ PUD may be subject to any new or amended regulations, requirements, policies or standards which are adopted after the original date of approval, unless 50 percent or more of the on-site work has been completed.

Section 7. Section 17.90.070 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.90.070 Criteria for approval of preliminary PUD application.

* * *

~~C. If the PUD requires a rezone(s), such rezone(s) shall be approved before any action is taken on the preliminary PUD application. If the PUD applicant seeks to change the use from that allowed in the underlying zone, a separate application for a rezone shall be submitted to be processed concurrent with the PUD application, but the rezone must be approved in order for the PUD to be approved.~~

Section 8. Section 17.90.080 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.90.080 Criteria for approval of final PUD application.

A. Applicants for a final PUD application shall demonstrate that all of the following criteria have been satisfied:

1. All features and amenities approved in the preliminary PUD have been constructed, or a bond has been posted for such construction;
2. The city public works director has documented that all conditions imposed on the preliminary PUD requiring public works department approval have been constructed to the satisfaction of the director;
3. The city fire marshal has documented that all conditions imposed on the preliminary ~~PRD~~ PUD requiring fire code approval have been constructed (or per the fire marshal's discretion will be constructed pursuant to a subsequent permit) to the satisfaction of the fire marshal;
4. The city planning director has documented that all conditions imposed on the preliminary PUD requiring planning department approval have been constructed to the satisfaction of the director;
5. Findings must be made that the preliminary PUD (and/or preliminary plat or binding site plan) conforms to all terms of preliminary PUD approval, that the PUD meets the requirements of this chapter and all other applicable codes and state laws.

* * *

Section 9. Section 17.90.090 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.90.090 Maximum gross floor area bonus.

A. The maximum gross floor area of a PUD may be increased, as set forth in subsection C, ~~over that permitted in the underlying zone only under the following circumstances:~~ (A) the increase must be consistent with the underlying comprehensive plan designation for the property; and (B) the increase ~~will~~ must not exceed 25 percent additional gross floor area over the smallest gross floor area allowed outright in the underlying

zone, ~~except in the general business district (B-2) it shall be up to 50 percent, except that in the Olympic Village Activity Center and the Westside general business (B-2) district no increase in gross floor area shall be allowed, and in the commercial district (C-1) it shall be 30 percent.~~ If, in any underlying zoning classification, a larger gross floor area is allowed or there is a procedure allowing the gross floor area to be increased, none shall apply in a PUD. The procedure in this Section constitutes the exclusive method to increase the gross floor area in a PUD. No variances from the gross floor area (whether such variance would constitute an increase or decrease in gross floor area) shall be allowed in a PUD. Such All gross floor area calculations shall be based on net buildable land. ~~The maximum gross floor area bonus may only be allowed if the applicant demonstrates the following:~~

B. Exceptions to Subsection A above are: (1) in the general business district (B-2) the increase may be up to 50 percent, except that in the Olympic Village Activity Center and the Westside general business (B-2) district no increase in gross floor area shall be allowed; and (2) in the commercial district (C-1) the increase may be 30 percent.

C. In addition to the above, the maximum gross floor area bonus may only be allowed if the applicant demonstrates the following:

~~A. 1. A 10 percent increase in gross floor area towards the maximum percent increase for the following additional open space. Open space must satisfy the standards in GHMC 17.90.100 for open space in order to be eligible for a density bonus. Such open space must be open to the general public. 4. In addition, the provision of open space must exceed by at least 30 percent the minimum required under the Design review Manual and be proportional to the size of the development: 10 percent increase.~~

2. A 10 percent increase in gross floor area towards the maximum percent increase for the preservation of natural features. Preservation of a desirable The natural feature shall be a desirable feature that would not otherwise be preserved such as, but not limited to, an unregulated wetland, stream corridor, unique geological feature, substantial over story vegetation and which would not otherwise be preserved, etc.: 10 percent increase.

3. A 10 percent increase in gross floor area towards the maximum percent increase for the preservation of scenic vistas. Preservation of scenic vista corridor(s) on-site and off-site and accessible to the general public: 10 percent increase.

4. A 10 percent increase in gross floor area towards the maximum percent increase for the provision of a desirable urban amenity. Provision of an The urban amenity shall that complements the proposed development and that exceeds thee requirements of the Design review Manual for common space or plazas. Such amenity may include such things as play area, public transit amenities, public restrooms, fountains or

other comparable amenities identified by the applicant or city staff: ~~10 percent increase.~~

5. A 10 percent increase in gross floor area towards the maximum percent increase for the design of a stormwater treatment system as an amenity. A stormwater treatment (retention/detention) facility that is also shall be designed as a visually aesthetic and physically accessible amenity for the enjoyment of the public: ~~10 percent increase.~~

Section 10. Section 17.90.100 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.90.100 Open Space.

In order to qualify for a height or gross floor area bonus/increase, the applicant must demonstrate that all of the following open space performance standards have been satisfied:

A. Common open space shall not include public streets, private streets, driveways, parking areas, required setbacks, required perimeter setbacks, or the required yards for buildings or structures, ; provided however, that up to 30 percent of the open space may be composed of open space on contiguous privately owned properties reserved by easement or covenant to assure that the open space will be permanent. A minimum of seventy percent (70%) of the required common open space shall be located on separate open space tracts shown on the face of the plat. A maximum of thirty percent (30%) of the required common open space may be comprised of open space on contiguous lots within the PUD. The face of the PUD and the Covenants, Conditions and Restrictions shall include designation of these required common open space areas as open space, as well as the requirements for the property owners within the PUD to maintain such open space, unless arrangements are made pursuant to GHMC 17.90.100(G)(2).

* * *

Section 11. A new Section 17.90.130 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

17.90.130. Recording by amendment to Official Zoning Map.

All changes of the district boundaries (from the underlying zoning classification to PUD) shall be made concurrent with the decision approving the final PUD. An ordinance shall be prepared and submitted to the City Council for approval, which will direct the Planning Director to make the necessary changes to the City's Official Zoning Map and to file the same with the City Clerk.

Section 12. Section 17.24.050 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.24.050 Development standards.

In an R-3 district, the minimum lot requirements are as follows:

	Single-family and duplex dwellings	Other residential and nonresidential
A. Minimum lot area for short plats ¹	5,400 sq. ft./dwelling unit	
B. Minimum lot width ¹	50'	50'
C. Minimum front yard ²	House: 20' Porch: 12' Garage: 26'	20'
D. Minimum side yard ^{4 3}	8'	7'
E. Minimum rear yard ^{4 3}	30'	25'
F. Maximum site coverage	60% of the total lot area	
G. Maximum density ³	8 dwelling units/acre	

¹A minimum lot area is not specified for subdivisions of five or more lots. The minimum lot width shall be 0.7 percent of the lot area, in lineal feet.

²In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line; provided, such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties as determined by the planning and public works directors.

³~~A maximum density of up to 10.4 dwelling units per acre may be permitted within a planned residential development, pursuant to Chapter 17.89 GHMC.~~

^{4 3} Garages accessory to single-family and duplex dwellings may be located in the defined side and rear yards, provided they conform to the criteria in GHMC 17.99.490(A)(1).

Section 13. Section 17.46.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.46.040 Development standards.

A minimum lot area for new subdivisions is not specified. The minimum development standards are as follows:

	Single- Family Dwelling	Duplex Dwelling	Non- residential Dwelling
A. Minimum lot area (sq. ft.) ¹	7,000	14,000	12,000
B. Minimum lot width	70'	50'	50'
C. Minimum front yard ²			
D. Minimum side yard ²			
E. Minimum rear yard ²			
F. Minimum yard abutting tidelands	0'	0'	0'
G. Maximum site impervious	40%	45%	50%

coverage			
H. Density ³	4 dwelling units per acre		
I. Maximum gross floor area including garages, attached and detached ^{4,3}	4,000 square feet per lot	4,000 square feet per lot	4,000 square feet per lot

¹An undersized lot or parcel shall qualify as a building site if such lot is a lot of record.

²The setbacks of GHMC 17.99.310 and 17.99.320 are applicable in the WR district.

~~³Density bonus of up to 30 percent may be granted subject to the requirements of Chapter 17.89 GHMC, Planned residential district.~~

^{4,3}Historic net sheds as defined in 17.04.615 shall be excluded from the maximum gross floor area requirements above.

Section 14. Section 17.48.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.48.040 Development standards.

A minimum lot area for new subdivisions is not specified. The minimum development standards are as follows:

	Single-Family Dwelling	Attached Up to 4 Units	Nonresidential
A. Minimum lot area (sq. ft.) ¹	6,000	6,000/unit	15,000
B. Minimum lot width	50'	100'	100'
C. Minimum front yard ²			
D. Minimum side yard ²			
E. Minimum rear yard ²			
F. Minimum yard abutting tidelands	0'	0'	0'
G. Maximum site impervious coverage	50%	55%	70%
H. Density ³	4 dwelling units per acre		
I. Maximum gross floor area including garages, attached and detached ^{4,3}	3,500 square feet per lot	3,500 square feet per lot	3,500 square feet per lot
J. Separation between structures	20'	20'	20'

¹An undersized lot or parcel shall qualify as a building site if such lot is a lot of record.

²The setbacks of GHMC 17.99.310 and 17.99.320 are applicable in the WM district.

~~³Density bonus of up to 30 percent may be granted subject to the requirements of Chapter 17.89 GHMC, Planned Residential Development Zone (PRD).~~

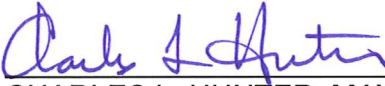
⁴³Historic net sheds as defined in 17.04.615 shall be excluded from the maximum gross floor area requirements above.

Section 15. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of this Ordinance.

Section 16. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this 9th day of June, 2008.

CITY OF GIG HARBOR



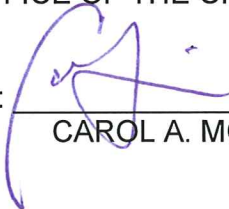
CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: 

MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: 

CAROL A. MORRIS

FILED WITH THE CITY CLERK: 05/21/08
PASSED BY THE CITY COUNCIL: 06/09/08
PUBLISHED: 06/18/08
EFFECTIVE DATE: 06/23/08
ORDINANCE NO: 1131