

ORDINANCE NO. 1177

AN ORDINANCE OF THE CITY COUNCIL OF GIG HARBOR, WASHINGTON, RELATING TO COMPREHENSIVE PLAN AMENDMENTS; AMENDING CHAPTER 19.09 OF THE GIG HARBOR MUNICIPAL CODE TO REVISE THE PROCEDURAL REQUIREMENTS FOR PROCESSING COMPREHENSIVE PLAN AMENDMENTS; CHANGING THE SUBMISSION DEADLINE OF AMENDMENTS; AMENDING THE ELEMENTS OF A COMPLETE APPLICATION; AMENDING THE CRITERIA FOR ACCEPTANCE AND APPROVAL OF COMPREHENSIVE PLAN AMENDMENTS; MAKING OTHER HOUSEKEEPING AMENDMENTS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, in 2007 the City adopted standards that incorporate into a common chapter all procedural requirements for amendments to the City's comprehensive plan; and

WHEREAS, since the adoption of the procedural requirements and the processing of amendments under those requirements, the City has determined that amendments to that process are necessary for efficient operation of government; and

WHEREAS, the City desires to move up the submission deadline for comprehensive plan amendments to December 18, 2009 for the 2010 cycle and thereafter, the last working day in October to allow adequate time for Planning Commission and City Council review of the proposed amendments; and

WHEREAS, the City desires to amend the complete application requirements to align with the criteria for approval and necessary concurrency review; and

WHEREAS, the City would like applicants for land use map amendments to conduct a public outreach program prior to submittal of an amendment in order to ensure that early and continuous public notification and participation occurs in the planning process; and

WHEREAS, in order to make efficient use of staff, Planning Commission and Council time, the City desires to limit the review of similar applications to once every three years, unless a change in circumstances warrants additional review; and

WHEREAS, the City desires to amend the criteria for approval of comprehensive plan amendments to remove redundancies and to differentiate between all applications and applications for land use map amendments; and

WHEREAS, the proposed standards are consistent with the goals, objectives, and policies of the City's Comprehensive Plan; and

WHEREAS, the City's SEPA Responsible Official has determined that the proposed standards are exempt under SEPA pursuant to WAC 197-11-800(19); and

WHEREAS, a copy of this Ordinance was forwarded to the Washington State Department of Commerce on August 31, 2009, pursuant to RCW 36.70A.106; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on September 14, 2009; and

WHEREAS, on September 28, 2009, the City Council held a 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. Chapter 19.09 of the Gig Harbor Municipal Code, Amending the Comprehensive Plan, is hereby amended, to read as follows:

19.09.010 Purpose.

The purpose of this chapter is to establish procedures for amending the city's comprehensive plan, including the comprehensive plan text and land use map, as well as the land use, housing, capital facilities plan, utilities, transportation, economic, and park/recreation elements of the comprehensive plan. The Growth Management Act (GMA) generally allows amendments to comprehensive plans only once per year, except as otherwise provided in RCW 36.70A.130(2)(a), so that the cumulative impacts of all proposed amendments can be analyzed. This chapter is intended to provide a process to "docket" proposed amendments for annual review, to provide timelines, to identify public participation procedures, application requirements, and review criteria for consideration of amendments to the various comprehensive plans.

19.09.020 Exceptions to the amendment process.

The city council may amend the comprehensive plan(s) more frequently than once per year under the following circumstances (consistent with RCW 36.70A.130(2)):

- A. Initial adoption of an identified subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;
- B. The adoption or amendment of a shoreline master program under the procedures set forth in Chapter 90.58 RCW;

C. The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of the city's budget; and

D. Any other circumstance specifically described in Chapter 36.70A RCW.

19.09.030 Submission deadlines.

Proposed amendments to the comprehensive plan or land use plan map may be submitted at any time. Applications received by ~~August 15, 2007~~ December 18, 2009, will be considered during the ~~current~~ 2010 annual review period. ~~Thereafter~~ For the 2011 annual review period and beyond, applications shall be received by the last working day in ~~February~~ October will be considered during the ~~current~~ annual review period, subject to GHMC 19.09.010 and 19.09.020. Applications received after the last day in ~~February~~ October will be considered during the next year's annual review period.

19.09.040 Types of amendments.

~~There are two amendment types: text and map. Both amendments require "docketing" and will be considered annually. All comprehensive plan amendments are considered legislative processes and are not subject to deadlines for issuance of a final decision or project permit applications in Chapter 19.05 GHMC. While the city may consider amendments only once a year, there is no deadline for the city's final decision on the amendments, nor is there any limitation on the number of hearings that the city may hold to consider the amendments.~~

19.09.050 Annual review process and SEPA review.

A. All comprehensive plan amendments are considered legislative processes and are not subject to deadlines for issuance of a final decision or project permit applications in Chapter 19.05 GHMC. While the city may consider amendments only once a year, there is no deadline for the city's final decision on the amendments, nor is there any limitation on the number of hearings that the city may hold to consider the amendments.

~~A. B.~~ Annually, the comprehensive plan amendment proposals shall be considered concurrently so that the cumulative effect of all amendments may be ascertained. Environmental review (SEPA) shall be conducted on all proposed amendments at the same time to consider the cumulative impacts of all amendments. Proposals may be considered at separate meetings and hearings, so long as the final action taken considers the cumulative effect of all the proposed amendments.

~~B. Proposed comprehensive plan amendments are subject to the following:~~

~~1. C.~~ Proportional Share of Costs. Individual applicants will be required to pay for their proportionate share of the costs involved in the SEPA analysis, which may include the preparation of an environmental impact

statement if deemed necessary by the responsible SEPA official. If an EIS is deemed necessary, the city will contact the applicant(s) to provide them with an estimate on the cost of the EIS and will require the applicant(s) to pay their proportionate cost before proceeding with the preparation of the EIS. Lack of payment in the time specified by the city will be deemed a withdrawal of the non-paying applicant's application. If actual costs of the EIS exceed the estimated cost, the city may bill each applicant for their proportional share of the cost overrun. Payments exceeding actual costs shall likewise be reimbursed proportionately. If payments for all cost due to the city are not paid, the proposed comprehensive plan amendments of the non-paying applicant shall not be approved.

~~C.~~ D. Assessment of Impacts. Except for those land use map amendments associated with a development agreement that limit development to specified uses and floor areas, the most intense use and development of the site allowed under the proposed land use designation will be assumed when reviewing potential impacts to the environment and to public facilities.

19.09.060 Initiation of amendments.

Amendments may be initiated by any interested person, including ~~applicants~~ property owners, citizens, hearing examiners, city council, planning commission, city staff and staff of other agencies.

19.09.070 Docket.

Proposed amendments will be assigned an application number and placed on a docket. A current copy of the docket shall be maintained by the planning department and shall be available for public inspection during regular city business hours.

19.09.080 Amendment applications.

A. General Application Requirements. All map and text amendment applications shall be accompanied by a completed application form as provided by the city along with the following additional information:

1. Name and address of the person or persons proposing the amendment;
2. An environmental checklist (SEPA), including a completed Part D;
3. All associated fees as established by the city;
4. A description and/or map of the proposed amendment;
- 4.5. A written statement explaining the following:
 - a. The purpose of the proposed amendment;
 - b. How the amendment is consistent with the Washington State Growth Management Act;
 - c. How the amendment is consistent with the adopted countywide planning policies;

d. How the amendment furthers the purpose of the city's comprehensive plan; and

e. How the amendment is internally consistent with the city's comprehensive plan, as well as other adopted city plans and codes;

~~f. If applicable, how the project will meet concurrency requirements for transportation under Chapter 19.10 GHMC, or GHMC 19.10.005; and (All concurrency evaluation)~~

~~g.~~ 5. Supplemental environmental review and/or critical areas review if determined by the planning director to be required.

6. If the proposed amendment would increase the intensity or density of permitted development, the following capacity evaluations are required:

a. A report identifying anticipated traffic trip generation under the existing and proposed comprehensive plan.

b. A report identifying anticipated sewer generation under existing and proposed comprehensive plan using flow projections provided in Chapter 1 of the city's Public Works Standards.

c. If within the city's water service area, a report identifying anticipated water use under existing and proposed comprehensive plan.

7. A written response to the criteria for initiation of an application contained in GHMC 19.09.130 and the criteria for approval of an amendment contained in GHMC 19.09.170.

B. Comprehensive Plan Text Amendment Requirements. In addition to the general application requirements, the following additional information shall accompany a text amendment application:

1. The proposed element, chapter, section, and page number of the comprehensive plan to be amended.

2. Proposed text changes, with new text shown in an underline format, and deleted text shown in strikethrough format or other format approved by the Planning Director.

~~3. For text changes that would allow increased residential densities or uses not otherwise allowed under existing text, a traffic impact analysis.~~

C. Comprehensive Plan Map Amendment Requirements. Map amendments include changes to any of the several maps included in the comprehensive plan including, but not limited to, the land use map, critical areas maps, neighborhood design areas map, future roadways map, preferred freight route map, roadway functional classification maps, short range transportation projects map, long range transportation projects map etc. All map amendment applications shall include the information specified under general application requirements. In addition, land use map amendment applications shall be accompanied by the following information:

1. The current land use map designation for the subject parcel(s);

2. The land use map designation requested;

3. A complete legal description describing the combined area of all the subject parcel(s);

4. A copy of the county tax assessor's map of the subject parcel(s);
5. A vicinity map showing:
 - a. All land use designations within 300 feet of the subject parcel(s);
 - b. All parcels within 300 feet of the subject parcel and all existing uses of those parcels;
 - c. All roads abutting and/or providing access to the subject parcel(s) including information on road classifications (arterial, minor collector, major collector access) and improvements to such roads;
 - d. Location of shorelines and critical areas on or within 300 feet of the site, if applicable;
 - e. The location of existing utilities serving the subject parcels including electrical, water and sewer (including septic); and
 - f. The location and uses of existing structures located on the subject parcel(s);
- ~~6. Mailing labels of all property owners within 300 feet of the subject site, as listed on the county assessor's tax rolls (the city may require the applicant at any time in the update process to submit updated mailing labels if the mailed notices are to be sent more than 30 days beyond the date the mailing labels were prepared);~~
- ~~7. A traffic impact analysis (TIA) assessing the potential impacts of the proposed amendment;~~
- ~~8. 6. Topographical map of the subject parcels and abutting properties at a scale of a minimum of one inch represents 200 feet (1:200);~~
- ~~9. 7. The current official zoning map designation for the subject parcel(s);~~
- ~~8. A description of any associated development proposals.~~

Development proposals shall not be processed concurrent with comprehensive plan amendments, but the development proposals may be submitted for consideration of the comprehensive plan amendments to limit consideration of all proposed uses and densities of the property under the city's SEPA, zoning, concurrency processes and comprehensive land use plan. If no proposed development description is provided, the city will assume that the applicant intends to develop the property with the most intense development allowed under the proposed land use designation. The city shall assume the maximum impact, unless the applicant submits with the comprehensive plan amendment a development agreement to ameliorate the adverse impact of the proposed development.

9. Public Outreach Program. The applicant shall conduct a public outreach program within the 90-day period preceding submittal of application and provide evidence of such program at the submittal of application. This requirement is waived for applications initiated by the City. The public outreach program shall be as follows:

a. The applicant shall conduct a minimum of two neighborhood meetings in order to solicit public comment on the desired land use map amendment;

b. A written notice of each neighborhood meeting shall be sent to property owners within 300 feet of the boundaries of the subject land use map amendment at least seven days prior to the meeting;

c. A notice of each neighborhood meeting shall be published in the city's officially designated newspaper at least seven days prior to the meeting. The published notice shall be at least one eighth-page advertisement.

d. All notices of neighborhood meetings shall include:

i. A description of the proposed land use map amendment;

ii. The name, address and phone number of the property owners and owner's representative;

iii. A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to a vicinity map, written description, parcel map or physical address;

iv. The date, time and place of the neighborhood meeting;

v. A statement that all interested persons may provide written comment to the property owner or owner's representative;

vi. A statement that all interested persons may appear at the meeting and provide public comment.

e. Copies of all written comments received and the attendance sign-up sheets from the neighborhood meetings shall be included in the application to the city.

~~10. A detailed plan which indicates any proposed improvements, including plans for:~~

~~a. Paved streets;~~

~~b. Storm drainage control and detention facilities;~~

~~c. Public water supply;~~

~~d. Public sanitary sewers;~~

~~e. Circulation and traffic patterns for the development and the surrounding neighborhoods; and~~

~~11. 10. Other information as may be required by the planning director to assist in accurately assessing the conformance of the application with the standards for approval;~~

~~12. A description of any associated development proposals.~~

~~Development proposals shall not be processed concurrent with comprehensive plan amendments, but the development proposals may be submitted for consideration of the comprehensive plan amendments to limit consideration of all proposed uses and densities of the property under the city's SEPA, zoning, concurrency processes and comprehensive land use plan. If no proposed development description is provided, the city will assume that the applicant intends to develop the property with the most intense development allowed under the proposed land use designation. The city shall assume the maximum impact, unless the applicant submits~~

~~with the comprehensive plan amendment a development agreement to ameliorate the adverse impact of the proposed development.~~

D. Related Applications. Comprehensive plan amendments shall be processed separately from any other related project permit applications, including but not limited to site-specific rezone applications, except that related development descriptions may be submitted as described in subsection (C)(43 g) of this section.

19.09.090 Determination of completeness for proposed amendments.

The planning director shall review all docketed applications and make a determination of completeness within 30 days of receipt of application. (The requirements of RCW 36.70B.080 or GHMC 19.02.003 do not apply to legislative processes.) ~~Applicants will be required to provide any additional material requested by the director within 15 days of the date of the request.~~ Applications which are determined to be incomplete as of 45 days after the annual application deadline date identified in GHMC 19.09.030 will not be considered during the current annual review process and will be considered during the next annual review period after a determination of completeness. It is highly recommended that applicants for amendments to the comprehensive plan contact the planning department and arrange for a preapplication conference prior to submittal of an application for amendment to avoid delays in processing.

19.09.100 Concurrency review.

Repealed by Ord. 1101. (Ord. 1075 § 1, 2007).

19.09.110 ~~Public n~~ Notice of public hearing(s).

A notice of public hearing(s) on proposed amendments to the comprehensive plan shall be published in the city's officially designated newspaper and shall also be included on the city's official website. For site-specific land use map amendment proposals (i.e., sites involving four or fewer parcels, or sites consisting of multiple contiguous parcels under a single ownership), the notice of public hearing shall be mailed to all property owners within 300 feet of the subject site. Notices shall be both mailed and published at least seven days prior to the scheduled public hearing.

19.09.120 Public hearing on docket.

The city council shall review and consider all of the amendments included in the docket that were submitted in time for review during the current ~~calendar year~~ annual review period during a regular council hearing before making a final decision on which amendments will proceed through the annual amendment process.

19.09.130 Considerations for decision to initiate processing.

Before rendering a decision whether the individual comprehensive plan amendment proposal may be processed during any year, the city council shall consider all relevant facts, including the application materials, as well as the following items:

A. Whether circumstances related to the proposed amendment and/or the area in which it is located have substantially changed since the adoption of the comprehensive plan; and

B. Whether the assumptions upon which the comprehensive plan is based are no longer valid, or whether new information is available which was not considered during the initial comprehensive plan adoption process or during previous annual amendments; and

C. For amendments that have been considered within the last 3 years, whether there has been a change in circumstances that makes reconsideration of the proposed amendment now appropriate.

19.09.140 Selecting the applications for further processing during annual review.

The council shall consider each application separately under the ~~procedures and criteria set forth in GHMC 19.09.120 and 19.09.130, and shall decide which applications will be processed during the current annual amendment process, and which will not be processed. Any proposed amendment selected by the city council for further processing shall be processed as provided in this chapter. The processing of any proposed amendment not selected by the city council shall be terminated and the proposed amendment removed from the docket, unless otherwise directed by city council. The council's findings and conclusions on the applications that will not be processed shall be incorporated into a resolution. No findings and conclusions are required for those applications that are forwarded to the planning commission for further processing during the current annual review.~~

19.09.150 Planning commission action.

Once the applications are forwarded to the planning commission for further processing, the planning director shall ensure that the applications have been reviewed under SEPA, and that a SEPA threshold decision has issued. The planning commission shall then hold a public hearing(s) on the applications and consider them cumulatively under the criteria set forth in GHMC 19.09.170. The commission's written recommendation on the applications shall then be forwarded to the city council.

19.09.160 City council action.

The city council shall consider the planning commission's recommendation on the comprehensive plan amendments and make a decision to either adopt or deny each amendment application. If the council makes no changes to the planning commission's recommendation,

the council may act on the amendments during a regular city council meeting. If the council makes any changes to the planning commission's recommendation, the council may be required to hold a public hearing, pursuant to RCW 36.70A.035(2). The city council shall not consider changes to private-party amendment applications after the planning commission's recommendation unless the changes are recommended by the planning commission or requested by the city council.

19.09.170 Criteria for approval.

Every applicant for a comprehensive plan amendment must demonstrate how each of the following criteria for approval has been satisfied in their application materials. The city council, in addition to the consideration of the conditions set forth in GHMC 19.09.130, shall make written findings regarding each application's consistency or inconsistency with each of the following criteria:

A. The proposed amendment meets concurrency requirements for transportation as specified in Chapter 19.10 GHMC;

B. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect adopted levels of service standards other public facilities and services such as parks, police, fire, emergency medical services and governmental services;

C. The proposed amendments will not result in overall residential capacities in the city or UGA that either exceed or fall below the projected need over the 20-year planning horizon; nor will the amendments result in densities that do not achieve development of at least four units per net acre of residentially designated land;

D. Adequate infrastructure, facilities and services are available to serve the proposed or potential development expected as a result of this amendment, according to one of the following provisions:

1. The city has adequate funds for needed infrastructure, facilities and services to support new development associated with the proposed amendments; or

2. The city's projected revenues are sufficient to fund needed infrastructure, facilities and services, and such infrastructure, facilities and services are included in the schedule of capital improvements in the city's capital facilities plan; or

3. Needed infrastructure, facilities and services will be funded by the developer under the terms of a developer's agreement associated with this comprehensive plan amendment; or

4. Adequate infrastructure, facilities and services are currently in place to serve expected development as a result of this comprehensive plan amendment based upon an assessment of land use assumptions; or

5. Land use assumptions have been reassessed, and required amendments to other sections of the comprehensive plan are being processed in conjunction with this amendment in order to ensure that adopted level of service standards will be met.

~~E. The proposed amendment is consistent with the goals, policies and objectives of the comprehensive plan;~~

~~F. The proposed amendment will not result in probable significant adverse impacts to the transportation network, capital facilities, utilities, parks, and environmental features which cannot be mitigated and will not place uncompensated burdens upon existing or planned services;~~

~~G. 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;~~

~~H. The proposed amendment will not create a demand to change other land use designations of adjacent or surrounding properties, unless the change in land use designation for other properties is in the long-term interest of the community in general;~~

~~I. The proposed amendment is consistent with the Growth Management Act, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and~~

~~J. The proposed effect of approval of any individual amendment will not have a cumulative adverse effect on the planning area.~~

The city's comprehensive plan was developed and adopted after significant study and public participation. The goals and policies contained therein shall therefore be granted substantial weight when considering a proposed amendment. The city council shall make written findings regarding each application's consistency or inconsistency with the following criteria:

A. The proposed amendment will further and be consistent with the goals, policies and objectives of the comprehensive plan; and

B. The proposed amendment is consistent with the Growth Management Act, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and

C. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect transportation facilities and other public facilities and services such as parks, police, fire, emergency medical services and governmental services; and

D. The proposed amendment advances the public interest; and

E. For text amendments which propose to increase density or intensity of permitted development and all land use map amendments, the following approval criteria also apply:

1. Adequate infrastructure, facilities and services are available to serve the proposed or potential development expected as a result of this amendment, according to one of the following provisions:

- a. The city has adequate funds for needed infrastructure, facilities and services to support new development associated with the proposed amendments; or
 - b. The city's projected revenues are sufficient to fund needed infrastructure, facilities and services, and such infrastructure, facilities and services are included in the schedule of capital improvements in the city's capital facilities plan; or
 - c. Needed infrastructure, facilities and services will be funded by the developer under the terms of a development agreement associated with the comprehensive plan amendment; or
 - d. Adequate infrastructure, facilities and services are currently in place to serve expected development as a result of this comprehensive plan amendment based upon an assessment of land use assumptions; or
 - e. Land use assumptions have been reassessed, and required amendments to other sections of the comprehensive plan are being processed in conjunction with this amendment in order to ensure that adopted level of service standards will be met; and
- 2. For a land use map amendment, 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
 - 3. The proposed amendment will not create a demand to change land use designations of other properties, unless the change in land use designation for other properties is in the long-term interest of the community in general.

19.09.180 Adoption and rejection.

The city council's decision to adopt or reject the proposed Comprehensive plan amendments that are approved shall be adopted by ordinance. All comprehensive plan amendments that are rejected shall be addressed in a resolution.

19.09.190 Transmittals to the state.

The planning department will transmit a copy of any proposed amendments and adopted ordinances to the Washington State Department of Community, Trade, and Economic Development (CTED) Commerce (COM) pursuant to the requirements of RCW 36.70A.106.

19.09.200 Appeals.

Appeals shall be filed with the Growth Management Hearings Board in accordance with the provisions of Chapter 36.70A RCW.

19.09.210 Applications for amendments located within the urban growth area and outside of the city limits.

As a courtesy recommendation only, the city council will consider applications for amendment of the Pierce County comprehensive plan

land use map for those parcels located within the urban growth area, but outside of the city limits. Actions of the city council will be forwarded to the Pierce County ~~commissioners~~ Council. The city council's recommendation on any amendments to the Pierce County comprehensive plan map is a recommendation only, and is not a final decision. It is therefore not appealable, either administratively or judicially.

19.09.220 Map and text revisions.

If ~~land use map~~ and text amendments are adopted, the city council shall order that the comprehensive plan ~~land use map~~ be amended to reflect the new amendments.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be 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 3. 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 Council and approved by the Mayor of the City of Gig Harbor, this 28th day of September, 2009.

CITY OF GIG HARBOR



Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:



Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Angela S. Belbeck

FILED WITH THE CITY CLERK: 09/09/09
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