

**ORDINANCE NO. 915**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO SUBDIVISIONS OF LAND, AMENDING THE PROCEDURE FOR BINDING SITE PLANS TO ALLOW SUBDIVISION OF RESIDENTIALLY ZONED PROPERTY FOR CONDOMINIUMS UNDER THE BINDING SITE PLAN PROCESS, AS CONTEMPLATED BY RCW 58.17.040(7); AMENDING GIG HARBOR MUNICIPAL CODE SECTIONS 16.11.001, 16.11.002, 16.11.003, 16.11.004, 16.11.005, ADDING NEW SECTIONS 16.11.025 AND 16.11.035; ADDING TWO NEW DEFINITIONS TO THE SUBDIVISION CODE OF "CONDOMINIUM" AND "BUILDING SITE," ADDING NEW SECTIONS 16.11.015 AND 16.11.018 TO THE GIG HARBOR MUNICIPAL CODE.**

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WHEREAS, the City has established a procedure for processing subdivisions of commercially and industrially zoned property under the Binding Site Plan process in Chapter 16.11 of the Gig Harbor Municipal Code; and

WHEREAS, the City Planning Staff recommended that this procedure be amended to allow for the subdivision of residentially zoned property for condominiums, when the division is the result of subjecting a portion of a parcel or tract to either chapter 64.32 (the Horizontal Property Regimes Act (Condominiums)) or chapter 64.34 (Condominiums); and

WHEREAS, the City's SEPA Responsible Official has determined that this ordinance is categorically exempt from SEPA under WAC 197-11-800(20);

WHEREAS, on May 16, 2002, the Planning Commission held a public hearing on this Ordinance and on June 6, 2002 made recommendation that the City Council adopt such Ordinance; and

WHEREAS, the City Community Development Director forwarded a copy of this Ordinance to the Washington State Office of Community Development on June 14, 2002 pursuant to RCW 36.70A.106; and

WHEREAS, on July 22, 2002 the City Council conducted a public hearing on the Ordinance during its regular City Council meeting; and

WHEREAS, on June 24, 2002 and August 12, 2002 the City Council considered the Ordinance during its regular City Council meetings; Now, Therefore,

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

Section 1. A new Section 16.01.015 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

**16.01.015. Condominium.** "Condominium," pursuant to RCW 64.34.020(9), means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners, and unless a declaration and a survey map and plans have been recorded pursuant to this chapter.

Section 2. A new Section 16.01.018 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

**16.01.018. Building site.** "Building site" means the physical portion of the real property upon which the structures in a binding site plan are situate within one lot, and which portion of the lot satisfies the applicable zoning code standards for physical placement, lot coverage, construction of structures and all other location and dimensional requirements for the dwelling unit.

Section 3. Section 16.11.001 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**16.11.001. Purpose.** The purpose of this chapter is to create a process for subdividing property under the following limited circumstances: (1) subdividing multi-family residentially zoned property (R-2, R-3, RB-2 & PCD-RMD) when the division is the result of subjecting a portion of a parcel or tract of land to Chapter 64.34 RCW subsequent to the recording of the binding site plan, as contemplated by RCW 58.17.040(7) and (2) subdividing commercially and industrially zoned property, as authorized by RCW 58.17.035. On sites that are fully developed, the

~~binding site plan merely creates new interior lot lines or alters existing interior lot lines. The binding site plan process merely creates or alters existing lot lines and does not authorize construction, improvements or changes to the property or the uses thereon.~~

In all cases, the property owners execute written agreements which are recorded against the affected property, ensuring that all lots within the binding site plan will continue to function as one site for any number of purposes, including but not limited to: lot access; interior circulation; common utilities; open space; landscaping and drainage; common facilities maintenance; and coordinated parking. The binding site plan ensues, through written agreements among all lot owners, that the collective lots continue to function as one site for the following purposes; which shall not be limited to; lot access; interior circulation; common utilities; open space; landscaping and drainage; common facilities maintenance and coordinated parking.

Section 4. Section 16.11.002 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**16.11.002. Applicability.**

~~Any person seeking the use of a binding site plan to divide his or her property for the purpose of sale lease or transfer of ownership of commercially or industrially zoned property, is required to have or apply for, a complete, approved and valid site plan (via City of Gig Harbor site plan review application), prior to any property division, as provided in Chapter 58.17 RCW and as required by this chapter.~~

- A. ~~The subject site which will be subject to the binding site plan shall consist of one or more legally created lots.~~
- B. The property must be zoned either industrial, commercial or multi family residential (R-2, R-3, RB-2 or PCD-RMD), and the binding site plan procedure applies to multi-family residential condominium projects only if a portion of a parcel or tract within the proposed project will comply with chapter 64.32 RCW after the recording of the binding site plan; and
- C. A site plan application under chapter 17.96 GHMC must be submitted to the City concurrent with the binding site plan application. A site plan approved by the City of Gig Harbor may be substituted for the site plan application.

~~The binding site plan process merely creates or alters existing lot lines and does not authorize substantial improvements or changes to the property or the uses thereon.~~

Section 5. A new section 16.11.025 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

**16.11.026 Vesting.** A binding site plan application shall be considered under the zoning and other land use control ordinances in effect on the land at the time of submission of the fully complete binding site plan application.

Section 6. Section 16.11.003 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**16.11.003 Complete binding site plan application.**

~~A proposed binding site plan shall be considered under the zoning and land use control ordinances in effect on the land at the time a fully complete application for a binding site plan is submitted.~~

In addition to the requirements for a complete application set forth in GHMC Section 19.02.002, an applicant for a binding site plan ~~permit~~ shall submit the following:

~~A. A completed application form provided by the department, signed by all property owners of the subject property and their authorized agents, with supporting documents as required below and which contains sufficient information to determine compliance with adopted rules and regulations;~~

A. A valid site plan approved by the City or a pending site plan application before the City (pursuant to chapter 17.96 GHMC);

B. ~~At a minimum, binding site plan applications shall include~~ All of the regular site plan elements per as listed in GHMC Section 17.96.050, as long as the following elements are also included:

1. A map or plan showing the location and size of all new proposed lots;
2. Proposed and existing structures including elevations and floor plans as known (plans which show building envelopes rather than footprints must include post construction treatment of unoccupied areas of the building envelopes) and their distance from property lines, the height and number of stories, distance between buildings, etc.;
3. All proposed uses (if not known, general types of anticipated uses) or existing uses;
4. The location of proposed or existing open space including any required landscaped areas, and all major man made or natural features, i.e., streams, creeks, drainage ditches, railroad tracks, utility lines, etc.;
5. The layout of an internal vehicular and pedestrian circulation system, including proposed or existing ingress and egress for vehicles;
6. ~~The number and location of proposed or existing parking spaces on and off the site;~~

6. The following Zoning code data: zoning district; total lot area (square feet); total building area (square feet); percent of site coverage; number of units proposed; total number of parking stalls (including handicapped); total parking and maneuvering area (square feet); required landscaping (square feet); percent of lot in open space; type of construction; sprinklered-nonsprinklered; occupancy classification.
7. Contains the name of the proposed development; the legal description of the property for which binding site plan approval is sought; the date on which the plans were prepared; the graphic scale and northpoint of the plans.
8. The title "Binding Site Plan" shall be at the top of the plan in large print, together with the required statement, prominently displayed on the face of the site plan.
9. Any areas proposed to be dedicated or reserved for public purposes, and areas to be reserved for private open space and landscaping and areas reserved for the common use of the occupants of the proposed development.

C. A copy of an approved grading plan and an approved drainage plan approved by either the City of Gig Harbor public works department (or any other requirement specified in the City of Gig Harbor surface water design manual or GHMC; or by Pierce County in the case of pre-annexation construction); and

D. A recent title report covering all property shown within the boundaries of the binding site plan application.

E. The location and size of on-site water bodies and drainage features, both natural and manmade;

F. A layout of sewer and the water distribution system;

G. The location and size of any utility (i.e., water, sewer, gas, electricity) trunk lines serving the site;

H. A phasing plan and time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within four years;

I. A list of any other development permits or permit applications having been filed for the same site;

J. A completed environmental checklist, if required by Chapter 18.04 GHMC;

K. Copies of all covenants, easements, maintenance agreements or other documents regarding mutual use of parking, common areas, open space, and access;

L. Copies of all easements, deed restrictions, covenants, or other encumbrances restricting the use of the site;

M. Documentation of the date and method of segregation for the subject property verifying that the lot or lots were created in accordance with the short subdivision or subdivision laws in effect at the time of creation; and

N. Contain the name of the proposed development; the legal description of the property for which binding site plan approval is sought; the date on which the plans were prepared; the graphic scale and northpoint of the plans;

O.

- I. ~~The binding site plan shall contain the conditions to which the binding site plan is subject, including any applicable irrevocable dedications of property and containing a provision requiring that any development of the site shall be in conformity with the approved site plan, and any applicable subdivision requirements of chapter 16.08 GHMC.~~

Section 7. A new Section 16.11.035 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

**16.11.035 Type of Permit Application.** A binding site plan application is a Type II application, and shall be reviewed and processed as set forth in Title 19 GHMC.

Section 8. Section 16.11.004 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**16.11.004 Criteria for Approval of Binding Site Plan.**

~~Binding site plan applications are Type II permit applications.~~

A. ~~the decisionmaker shall review the application and~~ An application for a binding site plan may be approved if the following criteria are satisfied: ~~findings are made:~~

1. The proposed lots will continue to function and operate as one site, for fully developed sites; and

2. ~~The decisionmaker must make findings that~~ The application must conform to the criteria conditions imposed on the approved site plan and the applicable development regulations; and

3. The decisionmaker must find that adequate provisions have been made for drainageways, alleys, streets, other public ways, water supplies, open space and sanitary wastes for the proposed development on the property included within the binding site plan;

- a. The decisionmaker must find that the proposed development complies with all applicable provisions of the building code and public works standards;

- b. The decisionmaker must find that the proposed development complies with all applicable provisions of Chapter 16.08 GHMC, and all provisions of the zoning code and the development standards in the zoning code relating to development in the underlying zoning district.

~~That the applicable development regulations, including Title 16 have been met.~~

B. Approval of Binding Site Plans in Residential Single Family (R-1) Zones. In addition to all other criteria for approval, a binding site plan may only be approved in an R-1 Zone if all of the following additional criteria are satisfied:

- a. The proposed use shall be consistent with GHMC Section 17.16.020;
- b. The minimum lot area per building site shall be one dwelling unit per 12,000 square feet of lot area;
- c. The minimum lot width per building site shall be 70 feet;
- d. The minimum front yard setback shall be 25 feet;
- e. The minimum rear yard setback shall be 30 feet;
- f. The minimum side yard setback shall be 8 feet;
- g. The minimum setback between principal structures on a building site shall be 8 feet;
- h. The maximum impervious lot coverage is 40%;
- i. The minimum street frontage is 20 feet;
- j. The maximum density is 3 dwelling units per acre (Up to 4 dwelling units per acre may be allowed with a PRD under chapter 17.89 GHMC; and
- k. The maximum height shall be as allowed in GHMC Section 17.16.070.

C. ~~The decisionmaker may~~ As a condition of approval of the binding site plan, the City may authorize sharing of open space, parking, access and other improvements among contiguous properties ~~subject to the binding site plan~~. Conditions of use, maintenance and restrictions on redevelopment of shared open space, parking, access and other improvements shall be identified on the binding site plan and enforced by covenants, easements or other similar mechanisms. Such agreements and restrictions shall be filed with the Pierce County Auditor and run with the property. Such agreements shall be approved as to form by the city attorney prior to the time that a decision is made on the binding site plan application. The binding site plan shall contain the conditions to which the binding site plan is subject, including any applicable irrevocable dedications of property. The binding site plan shall contain a provision requiring that any development of the site shall be in conformity with the approved site plan and any applicable development regulations.

D. Phasing of Development: Building permit applications shall be submitted for all structures shown on the binding site plan within four years of approval. If the applicant chooses to develop the property in a phased development, the applicant must execute a development agreement with the City (as provided in chapter 19.08 GHMC), which will govern the use and development of the property subject to the binding site plan, including: (1) vesting applicable to subsequent permits; (2) the manner in which each phase of the development will proceed to ensure that only the roads and utilities necessary to serve each phase of the development are constructed prior to the development of each phase; (3) expiration of the agreement and all provisions therein.

E. For Condominiums (Including developments on residentially zoned property): The use and development of the property shall be in accordance with the plan submitted as part of the binding site plan application (or as amended prior to the final decision) and division of any property within the binding site plan shall not take place until the development or the portion thereof to be divided is subject to chapter 64.32 RCW.

Section 9. Section 16.11.005 of the Gig Harbor Municipal Code shall be amended to read as follows:

**16.11.005. Final Binding Site Plan. Recording and binding effect.**

A. The final binding site plan map which is submitted for filing shall conform to all of the requirements for a complete binding site plan application, and shall also contain the following:

1. The map must be a reproducible map drawn to a scale of not less than one (1) inch equals one hundred (100) feet, on stabilized drafting film or on linen tracing cloth. Scale and north point must be on the map;

2. The size shall be eighteen (18) inches by twenty-two (22) inches;

3. The legal description of the total parcel shall be shown on the final map. All legal descriptions shall be by metes and bounds descriptions, reflecting within the descriptions ties to all subdivision lines, donation claim lines and/or recording plat lines;

4. Property subject to the binding site plan shall be surveyed by a land surveyor licensed in the state. All exterior corners and streets shall be monumented. The surveyor's certificate shall appear on the final map;

5. All conditions, limitations, and requirements for the use and development of the land as required by the approvals granted under this Chapter shall be set forth or referenced.

6. The face of the final binding site plan must contain a certificate, signed by all of the owners of the property, as required by GHMC Section 16.08.002.

7. Any dedications shall be shown on the final binding site plan as required by GHMC Section 16.08.001.

8. All certificates and statements as required by GHMC Section 16.08.003 shall be shown on the final binding site plan.

B. ~~The approved binding site plan recording forms shall meet all requirements of GHMC 16.08.003 for filing plat for record. An approved binding site plan shall be filed for record by the City, at the cost of the applicant, in the office of the Pierce County Auditor and shall not be deemed approved until so filed.~~



Section 10. Severability. If any portion of this Ordinance or its application to any person or circumstances is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the remainder of the Ordinance or the application of the remainder to other persons or circumstances.

Section 11. 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 12th day of Aug., 2002.

CITY OF GIG HARBOR

  
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GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By:   
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MOLLY TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 6/14/02  
PASSED BY THE CITY COUNCIL: 8/12/02  
PUBLISHED: 8/21/02  
EFFECTIVE DATE: 8/26/02  
ORDINANCE NO. 915

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