

ORDINANCE NO. 940

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE PROCEDURES FOR REVIEW OF APPLICATIONS REQUESTING DESIGN REVIEW APPROVAL, CLARIFYING THE PROPER APPLICATION OF DESIGN MANUAL REGULATIONS; ALLOWING FOR A FINAL ADMINISTRATIVE APPROVAL OF ALL DESIGN REVIEW APPLICATIONS MEETING THE DESIGN MANUAL REGULATIONS; ALLOWING FOR A PUBLIC MEETING AND DESIGN REVIEW BOARD RECOMMENDATION PROCESS FOR ALL DESIGN REVIEW APPLICATIONS NOT MEETING THE DESIGN MANUAL REGULATIONS; INCORPORATING THE DESIGN REVIEW GOALS FROM THE DESIGN MANUAL; AMENDING THE PROCEDURE AND CRITERIA FOR DESIGN REVIEW VARIANCES; AMENDING THE PROCEDURE FOR APPEALS OF DESIGN REVIEW DECISIONS TO BE CONSISTENT WITH TITLE 19 GHMC; AMENDING GHMC SECTIONS: 17.98.010, 17.98.030, 17.98.035, 17.98.040, 17.98.050, 17.98.060, 17.98.070 AND REPEALING GHMC SECTION 17.98.080.

WHEREAS, the procedures for Design Review approval are now exempt from the project permit processing procedures in Title 19 GHMC because the process is basically administrative; and

WHEREAS, the Design Review Board would like to hold public meetings to obtain input from the public on Design Review applications, but in order for the Board to do so, the procedures in chapter 17.98 GHMC must change to conform to Title 19 GHMC; and

WHEREAS, the definition of "public meeting" (RCW 36.70B.020(5)) contemplates that a public meeting may be held on a design review application so long as the Board issues a recommendation, not a final decision, on the application; and

WHEREAS, in order to provide an applicant with the ability to receive Design Review approval and still allow the City to conform with the requirement in state law and Title 19 GHMC that the final decision issue on the application within 120 days, a new Design Review processing procedure is needed; and

WHEREAS, the Design Review procedures used by the City in the past could be improved by clarifying the criteria for variances from the Design Manual, and how they differentiate between variances granted from the Zoning Code; and

WHEREAS, the Design Review procedures used by the City in the past could be improved by providing additional public notice of the City's final decisions on Design Review applications; and

WHEREAS, the City's SEPA Responsible Official issued a determination that the adoption of this Ordinance is merely procedural and is therefore exempt from SEPA under WAC 197-11-800(20); and

WHEREAS, the City Community Development Director forwarded a copy of this Ordinance to the Washington State Department of Trade and Community Development on April 8, 2003, pursuant to RCW 36.70A.106; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on June 5, 2003, and made a recommendation of approval to the City Council; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting of September 8, 2003, Now, Therefore,

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

Section 1. Section 17.98.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.98.010 Intent.

A. This chapter is and the Design Manual are intended to implement the goals and policies established in the design element of the City's Comprehensive Plan by providing design standards and procedures for the review of projects described in GHMC Section 17.98.030 ~~outdoor projects and development as described herein~~ to determine their compliance with design standards as adopted by the City.

B. Gig Harbor's Design Review Goals are to:

1. Encourage design and site planning that:
 - a. Compliments the existing character of Gig Harbor.
 - b. Relates visually and physically to surrounding development.
 - c. Promotes pedestrian usage.

2. Allow for diversity and creativity in project design.
3. Facilitate early and ongoing communication among project proponents, neighborhoods, and the city.
4. Increase public awareness of design issues and options.
5. Provide an objective basis for decisions which affect both individual projects and the City of Gig Harbor as a whole.
6. Ensure that the intent of goals and objectives contained within the City of Gig Harbor' Comprehensive Plan are met.

C. The design review process is not intended to determine the appropriateness of any given use on a given site or to address technical requirements, which are otherwise reviewed under the site plan review process. It is intended to protect the general health, safety and welfare of the citizens by protecting property values; protecting the natural environment; promoting pedestrian activities; promoting community pride; protecting historical resources; preserving the aesthetic qualities which contribute to the City's small town characteristics which have attracted residents, businesses and customers; and promoting the economic viability of the community by preserving and creating well-designed commercial districts which attract customers and businesses. The design review process provides an opportunity for new development to enhance Gig Harbor's character more effectively than through application of standard zoning regulations.

Section 2. Section 17.98.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.98.030 Design Manual Applicability.

A. General Applicability. The Design Manual applies to all proposals to build, locate, construct, remodel, alter or modify any façade on any structure or building or other visible element of the façade of the structure or building or site, including, but not limited to: landscaping, parking lot layout, signs, outdoor furniture in public or commercial locations, outdoor lighting fixtures, fences, walls and roofing materials (hereafter referred to as outdoor proposals), as described in the Design Manual. Design review approval is required for all outdoor proposals which require a building permit, clearing and grading permit, or

which are part of a project or development requiring a site plan, conditional use ~~or city council approval~~ permit or utility extension agreement.

- B. Applicability and Review of Historic District Design Section. The Historic District Design section of the Design Manual shall apply to all activities described in subsection (A) above in the entire Historic District, except that in the R-1 Zone within the ~~historic district~~ Historic District development ~~may~~, at the option of the property owner, development shall conform strictly to either the standards of Chapter 17.16 GHMC or the standards contained in the ~~design manual~~ Design Manual. Exercise of this option by the property owner shall not affect the City's ability to require compliance with all other applicable codes.

Section 3. Section 17.98.035 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.98.035 Design allowances ~~Review Criteria.~~ All sections of this ~~title chapter or the Design Manual~~, which provide criteria for DRB design review ~~decision making~~, shall be considered criteria for design allowances review approval and not design variances. Design exceptions allowances shall be processed as ~~a Type II application in accordance with all design review application and review criteria of this chapter.~~ in accordance with the criteria and procedures set forth in GHMC Section 17.98.060. General and administrative variances are processed as set forth in chapter 17.66 GHMC.

Section 4. Section 17.98.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.98.040 Design Review application requirements.

~~Application for design review, whether administrative or through the City's design review board (DRB), shall be submitted in such detail as to allow the review of the specific project on the merits of the City's design manual and other applicable codes. A formal design review application must be submitted for any project requiring city approval or permits, or for any project which will be reviewed by the DRB.~~

Projects which require design review in one or more of the categories listed under subsections (A) through (E) of this subsection shall be reviewed under one application addressing each category under review, or under a separate application for each individual category. To be considered complete, a completed

application form along with required design review fees must be submitted to the City Community Development Department. In addition, the following information must be submitted with applications for each category of requested design review:

A. Site Plan Review.

1. Site Plan. A site plan, drawn to scale no smaller than one inch equals 30 feet showing location and size of all structures, buffer areas, yards, open spaces, common areas or plazas, walkways and vehicle areas.
2. Vegetation Plan. A significant vegetation plan which accurately identifies the species, size and location of all significant vegetation within the buildable area and within five feet of all setback lines.
3. Landscape Plan. A preliminary landscape plan showing the species, size and location of all significant natural vegetation to be retained.
4. Site Section Drawings. Section drawings which illustrate existing and proposed grades in specified areas of concern as that may be identified by the staff. Alternatively, a topographic map of the property, delineating contours, existing and proposed, at no greater than five foot intervals and which locates existing streams, marshes and other natural features may be submitted.
5. Grading and Drainage Plan. An accurate grading and drainage plan which indicates all cuts, fills and required areas of disturbance necessary to construct all retaining walls and structures.
6. Utilities Plan. A utilities plan showing location of utilities in relation to landscape and buffer areas (utility plan must be consistent with proposed areas of nondisturbance).

B. Landscaping and Paving Review.

1. Final Landscape Plan. A final landscape plan showing type, size, species, and spacing of all retained and new vegetation.
2. Irrigation Plan. Showing irrigation of all domestic vegetation.
3. Paving Materials. Description of all pedestrian and vehicular paving materials. Descriptions must specify type, color and/or texture.

C. Architectural Design Review.

1. Elevation Drawings. Complete elevation drawings of all buildings showing all trim details, dimensions and proposed materials including roofing, siding, windows and trim.
2. Sign Plan. A master sign plan or individual sign plans showing the location of signage on buildings, ~~proposed sign colors; materials, design and methods of illumination~~, consistent with GHMC Chapter 17.80.
3. Architectural Lighting Details. Details on all lighting proposals which affect architectural detailing (e.g., indirect lighting), or which are for architectural enhancement.
4. Screening details. Details on how all mechanical and utility equipment will be screened.

D. Color and Material Review.

1. Color Palette. A color palette of the building's exterior including roof, siding, trim.
2. Material Samples. Sample colors of all factory finished materials including roofing and masonry materials.
3. Fencing Details. Color, type and specification of all fencing and screening materials.

E. Outdoor Lighting and Accessories Review.

1. Light Fixture Detail. The type, model, color, location, height, wattage and area of illumination for all outdoor light fixtures.
2. Accessory Details. The type, model, color and location of all outdoor furniture, trash receptacles and accessories.

Section 5. Section 17.98.050 of the Gig Harbor Municipal Code is hereby repealed.

Section 6. A new Section 17.98.050 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

17.98.050 Design Review and Project Approval. The applicant shall choose one of the following application review paths, based upon whether or not the application strictly conforms to the Design Manual:

- A. Director's Review. A design review application may be processed by the Director as follows:
 1. The application shall be reviewed for compliance with the Design Manual and all other applicable codes. The director shall issue a final decision approving the

application or portions thereof if he/she finds that the application or portions of the application satisfy the strict requirements of the Design Manual. The Director shall not approve any application or portion thereof that does not comply with applicable codes.

2. An applicant may choose to submit an application for review by the Director on a single category or multiple categories from GHMC Section 17.98.040. If an applicant chooses to submit fewer than all categories from GHMC Section 17.98.040, the Director shall only provide preliminary decisions on each category. Once the City has received a complete application (meaning that all information has been submitted for processing of all categories listed in GHMC Section 17.98.040), the Director shall issue a final decision on the entire application. The preliminary decisions made by the Director on each category may be different from the final decision on the entire application, with regard to each category.
3. A notice of complete application shall not be issued until the City has received a complete application (as described in Section 17.98.040). A notice of application shall be issued for any complete application processed under this subsection, as set forth in Title 19 GHMC for a Type III project permit application. The complete application shall otherwise be processed as a Type II project permit application, and a final decision shall be issued on a complete application before the deadline established in GHMC Section 19.05.009. If the final decision is appealed, the appeal shall be considered in an open record hearing, as described in Title 19 GHMC.

B. Design Review Board Review. A design review application may be processed by the Design Review Board as follows:

1. The Board shall review an application or that portion of an application which does not strictly conform to the specific requirements of the Design Manual under the following criteria: (i) whether the alternative design presented by the application represents an equivalent or superior design solution to what would otherwise be achieved by rigidly applying specific requirements; and (ii) whether the alternative design meets the intent of the general requirements of the Design Manual. The Design

Review Board shall not review or make a recommendation on any application or portion of an application that does not satisfy all other applicable codes.

2. The Board's processing of an application or portion of an application under this subsection is exempt from project permit processing in Title 19 GHMC. If an applicant chooses to submit an application for review by the Board, it shall submit a written waiver acknowledging that the application or portion thereof will not be processed under Title 19 GHMC, except to the extent described in this subsection 17.98.050(B).
3. If an applicant chooses to submit fewer than all categories from GHMC Section 17.98.040, the Board shall only provide preliminary recommendations on each category. Once the City has received a complete application (meaning that all information has been submitted for processing of all categories listed in GHMC Section 17.98.040), the Board shall issue a recommendation on the entire application. This recommendation may be different from the preliminary recommendation provided on each of the categories listed in GHMC Section 17.98.040 with regard to each category.
4. A notice of complete application shall be issued on the application once the City has received a complete application (as described in Section 17.98.040). A notice of application shall be issued for any complete application processed under this subsection, as set forth in Title 19 GHMC for a Type III project permit application.
5. An application for the Board's review of a category listed in GHMC Section 17.98.040 or a complete application shall proceed as follows:
 - a. The Planning Staff shall send notice of a public meeting to property owners within 300 feet of the subject property.
 - b. The public meeting shall be scheduled to be held in the same manner as a public hearing, as set forth in GHMC Section 19.03.003.
 - c. The Board shall hold a public meeting on the application or the portion of the application.

- d. After the public meeting, the City staff shall draft the Board's preliminary recommendation or recommendation on the application or portion thereof.
- e. Once a complete application has received a recommendation from the Board, an open public hearing before the Hearing Examiner shall be scheduled for the application or both the application and the underlying permit application.
- f. Notice of the public hearing shall be sent as provided in GHMC Section 19.03.003.

Section 6. Section 17.98.060 of the Gig Harbor Municipal Code is amended to read as follows:

17.98.060 Variances. Exceptions

A. Processing. An exception requested under this section shall be processed in conjunction with a Design Review application, and shall follow the procedures for permit processing by the Board as set forth in GHMC Section 17.98.050(B). An exception is used in those situations in which an applicant does not provide an alternative design to the requirements of the Design Manual.

B. Application. The requirements for a complete Design exception application are:

1. Submittal of a complete design review application as set forth in GHMC Section 17.98.040.
2. A written statement describing the requested exception.
3. A written statement justifying the granting of the requested exception pursuant to the criteria of GHMC Section 17.98.060(D).

C. Board Action. The Board shall issue a recommendation to the Hearing Examiner on an exception application.

D. Criteria for Approval. All of the following circumstances must be shown to exist for approval of a Design exception:

~~A. Required Findings. Variances from the requirements of the Design Manual may be granted by the DRB as a type II application, except that variances affecting height and setbacks which exceed the limitations established in GHMC 17.66.020(A) must be reviewed by the hearing examiner as per the Type III general~~

~~variance procedures established in GHMC 17.66.030. Before a design variance can be granted, the design review board shall make findings of fact setting forth and showing that all of the following circumstances exist:~~

1. Special conditions and circumstances exist which render a specific requirement of the Design Manual ~~unreasonable unnecessary~~, given the location and intended use of the proposed development;
2. The special conditions and circumstances are characteristic of the proposed general use of a site and not of a specific tenant;
3. The special conditions and circumstances are not representative of typical retail, professional office or residential type development that may be allowed within the zoning district;
4. The requested exception variance ~~is~~ based upon functional consideration rather than economic hardship, personal convenience or personal design preferences;
5. Architectural changes in the project design as a result of the exception variance ~~have~~ been sufficiently compensated by other architectural embellishments, and site plan changes as a result of the exception variance ~~have~~ been sufficiently compensated by other site amenities; and
6. The requested exception variance ~~will~~ not result in a project that is inconsistent with the intent and general scope of the design manual standards.

~~B. Notice. Notice of the increased height approved by the DRB under increased height options described in the design manual shall be sent to owners of all contiguous parcels.~~

~~Section 8. Section 17.98.070 of the Gig Harbor Municipal Code shall be amended to read as follows:~~

~~**17.98.070 Recommendations, Decisions and Appeals.
Appeals of the Director's or DRB's Decision.**~~

- A. The decision rendered by the Director or the recommendation by the Design Review Board shall be in writing. The Design

Review Board Chair shall sign the recommendation to be forwarded to the Hearing Examiner.

- B. The decision/recommendation shall describe the facts surrounding the application, the applicable Design Manual provisions triggered by the application, include an analysis of the facts and applicable Design Manual provisions to the facts, and shall include conclusions supporting the approval, denial or recommendation for approval or denial under the Design Manual.
- C. A decision of the Director may be appealed as set forth in Title 19 GHMC for a Type II project permit application. A recommendation of the Design Review Board on an application or exception will be acted upon by the hearing examiner in an open record hearing either on the design review application or the underlying project permit application.

~~The planning director's decision may be appealed to the hearing examiner if the applicant believes that the director interpreted the specific requirements of the design manual incorrectly. The decision of the DRB may be appealed to the hearing examiner by parties of record, if the parties of record believe that the DRB interpreted the general requirements of the design manual incorrectly. Appeals are subject to the provisions of chapter 19.06 GHMC.~~

Section 9. Section 17.98.080 of the Gig Harbor Municipal Code is hereby repealed.

Section 10. 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 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 City Council and approved by the Mayor of the City of Gig Harbor this 8th day of September, 2003.

CITY OF GIG HARBOR


GRETCHEN WILBERT, 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: 8/6/03
PASSED BY THE CITY COUNCIL: 9/8/03
PUBLISHED: 9/17/03
EFFECTIVE DATE: 9/22/03
ORDINANCE NO: 940

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