

ORDINANCE NO. 730

AN ORDINANCE TO AMEND THE CITY'S ZONING MAP BY REZONING FROM R-1 and B-2 TO R-3-CONTRACT A PARCEL OF LAND LOCATED AT 9009 FRANKLIN AVENUE, SUBJECT TO THE RECORDATION OF A CONCOMITANT ZONING AGREEMENT, WHICH SHALL GOVERN DEVELOPMENT OF THE PROPERTY.

WHEREAS, Esther Coulter has requested a rezone from R-1 and B-2 to R-3 contract at 9009 Franklin Avenue (REZ 94-01/SPR 94-04); and

WHEREAS, a public hearing was held on October 19, 1994 at which time public input was received from numerous property owners within the vicinity of the subject site expressing support of the proposed rezone/site plan; and

WHEREAS, the Hearing Examiner recommended approval of the requested rezone\site plan as stated in his report dated October 27, 1994; and

WHEREAS, the Gig Harbor City Council has reviewed the record of the Hearing Examiner's decision at its regular session of November 14, 1994; and

WHEREAS, the Council agrees with the findings and conclusions of the Hearing Examiner as stated in his report for REZ 94-01/SPR 94-04 dated October 27, 1994 which refers to the staff report dated October 19, 1994; and,

WHEREAS, the Hearing Examiner has recommended conditions of approval for the proposed contract rezone subject to the condition that a formal legal contract be submitted to the City's legal counsel for review and approval and which contains the following additional conditions and restrictions:

1. Except for the parking lot and four-plex as shown on the approved site plan and landscape plan, no other uses or structures shall be allowed on the subject site.
2. All structures on the site shall conform to the following regulations:
 - (a) Fire flow must be provided in accordance with Uniform Fire Codes applicable at the time of building permit issuance.
 - (b) Access must be provided to all areas of both floors in accordance with the Washington State Standards for Access applicable at the time of building permit issuance. Access must also be provided in accordance with the Federal ADA Standards applicable at the time of building permit issuance.

- (c) Emergency exiting must be provided in accordance with Uniform Building Codes applicable at the time of building permit issuance.
 - (d) Fire rated separation walls and floor/ceiling assemblies will be required between each living unit in accordance with Uniform Building Codes applicable at the time of building permit issuance.
 - (e) A complete plan review will be done upon submittal of plans for building permit.
3. The lower parking lot will be at a level approximately 4 feet below natural grade (as existing prior to excavation) concealed behind berms around the perimeter of the premises, the berms being approximately 4 feet above the parking lot level. The perimeter berm and landscaping shall be designed to preserve sight lines from Peacock Hill Ave. entering N. Harborview Dr. as approved by the Public Works Department.
 4. Use, development and design of structures and landscaping on the property shall be consistent with the approved site plan and architectural designs (to be included as labeled exhibits in the contract), provided that minor design and dimension alterations which do not alter the general scale, character, or intensity of development may be approved jointly by the Planning Director and owner or homeowner's association. Major amendments shall be approved only through City-adopted amendment processes for zoning designation and the joint approval of all owners of the property.
 5. In exchange for installation of curbs, gutters and sidewalks normally required as part of site plan approval, the owner of the subject parcel shall include on the recorded plat an easement to the City allowing curbs, gutters, sidewalks and roadways (which have historically existed on the site) across an area of a triangle measuring 30 feet up Peacock Hill Avenue and 60 feet along North Harborview Drive, with the apex of the triangle being on the property corner nearest the street intersection (as illustrated in Section VII.2 of the staff report dated October 19, 1994).
 6. Normal half street improvements shall be installed in accordance with code requirements along the property frontage on Franklin Avenue.
 7. An ordinance amending the official zoning map shall not be approved until the property owner shall file with the City Council for approval and record with the Pierce County auditor's office a final condominium plat for the parcel which reflects the approved site plan and which contains or references the information required as part of the site plan approval and this contract. All referenced information not contained directly on the plat shall be recorded with the Pierce County auditor's office.

8. Maintenance of all privately owned common facilities on the site shall be the responsibility of the developer, owner or a home owners association. If common facilities are to be maintained by a home owners association, the association shall be established and incorporated prior to final plat approval. A copy of the association's bylaws shall be submitted with the final plat and shall include, at a minimum, the following authorities and responsibilities:
 - A. The enforcement of covenants imposed by the landowner or developer.
 - B. The levying and collection of assessments against all units to accomplish the association's responsibilities.
 - C. The collection of delinquent assessments through the courts.
 - D. The letting of contracts to build, maintain and manage common facilities.
9. Prior to finalization of the plat, a final landscape plan shall be submitted to and approved by the planning staff which specifies plant species and which conforms to all landscaping requirements of the zoning code.
10. All landscaped areas shall include a mechanical irrigation system.
11. The landscape plan shall include specifications on the berm design. The berm shall be a sloped berm on the street side and shall include sufficient ground cover to prevent erosion from water run-off onto the sidewalk.
12. Prior to issuance of final occupancy, all required improvements and landscaping shall be constructed and installed. In lieu of construction or installation of required improvements, a bond equal to an amount of 120% of the contractors bid for all required improvements shall be posted with the City. If accepted by the City, the bond shall have a term not to exceed eighteen (18) months. Required improvements shall be installed within twelve months of final occupancy permit issuance. Failure to construct or install the required improvements within the time specified to City standards shall result in the City's foreclosure of the bond. Upon foreclosure, the City shall construct, or may contract to construct and complete, the installation of the required improvements.
13. Prior to building permit issuance a grading and drainage plan, including provisions for storm water collection and retention, shall be submitted to the Public Works Department for review and approval; and,

WHEREAS, condition number 7 above states (in part) that the official zoning map shall not be approved until the property owner shall file with the City Council for approval and record with the Pierce County auditor's office a final condominium plat for the parcel which reflects the approved site plan and which contains or references the information required as part of the site plan approval and this contract.

WHEREAS, a binding site plan containing all required information stipulated in condition number 7 above was recorded (A.F.N. 9603270463) in lieu of a final condominium plat because a final condominium plat cannot be recorded until after the project is completed and because the project cannot be completed until the rezone is approved; and

WHEREAS, a formal legal contract as per the attached copy was submitted to the City's legal counsel for review and approval and is ready for recordation at the Pierce County Auditor's Office ; and

WHEREAS, all other conditions of approval have been complied with;

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington, **ORDAINS** that the following described property be rezoned from R-1 (single family) and B-2 (general business) to R-3-Contract (Multi-family residential - contract), subject to the recordation of a concomitant zoning agreement which shall govern development of the property:

DESCRIPTION-PER STATUTORY WARRANTY DEED A.F.N. 8802020363;

BEGINNING AT THE SOUTHEAST CORNER OF LOT SIX (6), PRENTICE ADDITION TO GIG HARBOR, EXTENDING THENCE NORTH 43 DEGREES WEST, ALONG THE EASTERLY LINE OF SAID LOT SIX AND THE EASTERLY LINE OF LOT FIVE (5) IN THE SAME ADDITION, A DISTANCE OF 227.28 FEET, TO THE NORTHEAST CORNER OF SAID LOT 5, IN SAID ADDITION; THENCE NORTH 44 DEGREES 27 MINUTES 55 SECONDS EAST A DISTANCE OF 100 FEET; THENCE SOUTH 43 DEGREES EAST, ON A LINE PARALLEL WITH THE EASTERLY BOUNDARY LINES OF SAID LOTS 5 AND 6 OF SAID PRENTICE ADDITION, A DISTANCE OF 157.48 FEET TO THE INTERSECTION OF SAID LINE WITH THE WESTERN BOUNDARY OF Section 17.72.030(M)SKAGIT STREET; THENCE SOUTH ALONG THE WESTERN BOUNDARY LINE OF SKAGIT STREET A DISTANCE OF APPROXIMATELY 46.22 FEET TO THE INTERSECTION OF SAID LINE WITH THE NORTHERLY BOUNDARY LINE OF FRONT STREET; THENCE SOUTHWESTERLY ALONG THE NORTH BOUNDARY LINE OF FRONT STREET A DISTANCE OF APPROXIMATELY 60.53 FEET TO THE PLACE OF BEGINNING.

The concomitant zoning agreement is attached hereto as Exhibit A, and is incorporated herein by this reference.

PASSED this 22 day of July, 1996

GRETCHEN A. WILBERT, MAYOR

ATTEST:

Mark E. Hoppen, City Administrator

Filed with City Clerk: 6/19/96
Ordinance Adopted: 7/22/96
Date Published: 7/24/96
Effective Date: 7/29/96