

**ORDINANCE NO. 853**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, ADDING NEW CRITERIA TO THE GENERAL CRITERIA FOR THE APPROVAL OF ZONING DISTRICT MAP AMENDMENTS, AS REQUIRED BY A RECENT DECISION OF THE WASHINGTON STATE SUPREME COURT, REPEALING THE REQUIREMENT THAT ZONING CODE TEXT AMENDMENTS FOLLOW GENERAL MAP AMENDMENT CRITERIA; REPEALING SECTION 17.100.040 AND AMENDING SECTION 17.100.035 OF THE GIG HARBOR MUNICIPAL CODE.**

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WHEREAS, the City has adopted certain criteria for the approval of site specific rezones to the Official Zoning Map, or “zoning district map amendments;” and

WHEREAS, in Citizens for Mount Vernon v. City of Mount Vernon, 133 Wn.2d 861, 947 P.2d 1208 (1997) the Washington Supreme Court articulated the criteria for approval of site specific rezones, but not all of these criteria are included in the City’s Zoning Code; and

WHEREAS, Section 17.100.010 should be amended to distinguish the site specific rezones as Type III permit applications and those for area wide rezones as Type V permit applications in accordance with GHMC Chapter 19.01.003; and

WHEREAS, Section 17.100.025 should be amended to clarify that area wide rezones will be seen by the planning commission by June 4<sup>th</sup>, but that site specific rezones will be processed as Type III permits in accordance with GHMC Chapter 19.02; and

WHEREAS, Section 17.100.040 inappropriately requires that the City consider the general criteria for amending the Zoning District Map when making changes to the text of the Zoning Code; and

WHEREAS, the City Attorney drafted an ordinance for the Planning Commission’s consideration at a public hearing; and

WHEREAS, the Planning Commission held a hearing on the ordinance on October 5, 2000, and recommended that the City Council adopt the ordinance; and

WHEREAS, pursuant to RCW 36.70A.106, the City Planning staff sent a copy of this ordinance to the Washington State Department of Trade and Community Development at least sixty (60) days prior to final adoption; and

WHEREAS, the City Council considered the ordinance during its regular meeting on October 23, 2000;

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

Section 1. Section 17.100.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**17.100.010 Authority to amend.** Whenever the public health, safety, general welfare, modifications to the comprehensive plan or good zoning practice requires, the city council may amend, supplement, modify, repeal or otherwise change these regulations and the boundaries of the districts in conformity with the comprehensive plan. Site specific rezones are a Type III permit application and area wide rezones are a Type V permit application and shall be processed in accordance with GHMC Chapter 19.02.

Section 2. Section 17.100.025 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**17.100.025 Citizen suggestions for zoning code update.** Prior to June 1<sup>st</sup> of each year, the planning commission will review any interested citizens' staff members' or the hearing examiner's request of any text or area wide zoning district map adjustment received. The planning commission may, at its discretion, consider such request and, if deemed to be in furtherance of the goals and policies of the comprehensive plan and in the public's health, safety and general welfare, may conduct a public hearing on any text or map adjustments it deems appropriate. The planning commission's recommendation to the city council will be considered in accordance with the procedures established in GHMC 17.100.050 (Ord. 710 sec. 98, 1996).

Section 3. Section 17.100.035 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**17.100.035 General Criteria for Zoning District Map Amendment.** ~~Requests for amending the zoning district designation of an area or the zoning code text shall be based on the following criteria:~~ Applications for amendments to Zoning District Map (which include, but are not limited to site specific rezones) may only be approved if all of the following criteria are satisfied:

A. ~~That The application request for the Zoning District Map reclassification or zoning code text change amendment is~~ must be consistent with and further the goals, policies and objectives of the comprehensive plan;

B. ~~That The requested application for the Zoning District classification or zoning code text change amendment will~~ must further or bear a substantial relationship to the public's health, safety and general welfare;

C. ~~That No substantial detrimental effect shall~~ will be caused by the granting of the requested reclassification application for the or amendment; and

D. The proponents of the application have the burden of proof in demonstrating that conditions have changed since the original zoning or original designation for the property on the Zoning District Map.

Section 4. Section 17.100.040 of the Gig Harbor Municipal Code is hereby repealed.

Section 5. As required by RCW 36.70A.106(2), a copy of this Ordinance will be sent to the Washington

Department of Trade and Community Development, within ten (10) days after final adoption.

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be 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, sentence, clause or phrase of this ordinance.

Section 7. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of an ordinance summary, consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor  
this 14th day of November, 2000.

CITY OF GIG HARBOR

  
GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By:   
MOLLY TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 10/18/00  
PASSED BY THE CITY COUNCIL: 11/14/00  
PUBLISHED: 11/22/00  
EFFECTIVE DATE: 11/27/00  
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