

AGENDA
GIG HARBOR CITY COUNCIL SPECIAL MEETING
Thursday, September 7, 2023 - 5:00 PM
Community Rooms

This meeting may also be accessed through Zoom at <https://zoom.us/j/93216056382> or by calling (253) 215-8782 and entering meeting ID 932 1605 6382. Please see the public comment & decorum section at the end of this agenda for information on options for making public comments.

CALL TO ORDER/ROLL CALL

EXECUTIVE SESSION

1. To discuss potential litigation per RCW 42.30.110(1)(i)

BUSINESS ITEMS

1. **Ordinance 1516 Adopting Interim Zoning Controls Pertaining to Site Specific Rezones and Height Restriction Area Variances**
Suggested Motion: Move to approve Ordinance 1516.
 - a. Staff Report - Community Development Director Carl de Simas
 - b. Clarifying Questions
 - c. Council Deliberation and Action

DISCUSSION ITEMS

1. **Appointments to Lodging Tax Advisory Committee**
2. **Proposed Water Utility Rate Tiers**

ADJOURN

PUBLIC COMMENT & DECORUM

Public comment will not be taken at this special meeting.

AMERICANS WITH DISABILITIES (ADA) ACCOMMODATIONS

ADA accommodations can be provided upon request. Those requiring special accommodations should contact the city clerk at cityclerk@gigharborwa.gov or (253) 853-7613 at least 24 hours prior to the meeting.



**City of Gig Harbor
City Council Meeting Agenda Bill**

Meeting Date: September 7, 2023

SUBJECT: Ordinance 1516 Adopting Interim Zoning Controls Pertaining to Site Specific Rezones and Height Restriction Area Variances

SUBMITTED BY: [Community Development Director Carl de Simas](#)

DEPARTMENT: Community Development

PHONE: (253) 853-7628

SUGGESTED MOTION: Move to approve Ordinance 1516

BACKGROUND INFORMATION: It has recently been brought to staff's attention that the current process adopted in the Gig Harbor Municipal Code (GHMC) for amending the city's zoning map through a site-specific rezone is improper. A site-specific rezone, typically an application submitted by a private property owner and relative to a specific property, is currently processed as a Type III permit application. A Type III permit application is heard by the hearing examiner who then makes the final decision on whether to approve the application. Site-specific rezones, however, are considered quasi-judicial and quasi-legislative and amend the city's zoning map, and therefore should be decided by the city council. This ordinance would rectify that process error in the code.

If adopted, this ordinance would reclassify site-specific rezone applications to a Type IV process. The application would be heard at a public hearing by the hearing examiner who would then provide a recommendation to city council. Council's determination would be quasi-judicial with the hearing examiner's decision and public hearing record available for consideration. Council would not hold another hearing as a site-specific rezone can have only one hearing and the council would make a decision based on the information in the record. If approved, the decision would be in the form of an ordinance authorizing the amendment to the city's zoning map.

In addition, while processing an application for a height restriction area (HRA) map amendment, staff found that the code language describing the HRA is ambiguous. [Section 17.62.020](#) GHMC states that the HRA standards "shall be imposed as an overlay zone shown on the city's official height restriction area map, which depicts the property subject to the height restriction." This language does not describe what the HRA map is or how it is adopted. An overlay is typically adopted as part of a jurisdiction's zoning map. This is not currently the case, nor does this section prescribe such. Staff's research into the matter found that the code section did originally describe the HRA as the "height overlay district" and noted that it was an overlay to be shown on the city's official zoning map. Having the HRA shown as an overlay on the zoning map is preferred and helps to better prescribe amendments to the overlay and/or the standards for properties within the overlay.

As it stands currently, the city accepts applications for amendments to the HRA map as a Type III process (final decision made by the hearing examiner) whereby approval

leads to removal of the property from the HRA altogether. If the HRA is truly a zoning overlay as originally intended, changing the boundaries of the HRA should amount to a site-specific rezone. As noted previously, a site-specific rezone should be decided by the city council with a recommendation provided by the hearing examiner. Secondly, if an owner of property within the HRA wants to propose a project that would deviate from the HRA standards (maximum height of 16-feet), the proposal should be the subject of a variance, as would any other proposal to deviate from a zoning standard in GHMC. This ordinance, if adopted, would correct this additional, but relative error in process by adding the HRA to the city's zoning map and clarifying the process for deviating from the HRA standards and removing property from the HRA overlay zone. The ordinance would not affect the 16-foot maximum height standard of the HRA.

The amendments within this ordinance are presented as interim zoning controls which may be adopted upon first reading. The reason for recommending interim zoning controls and not permanent regulations is due to permit applications already in process, which are relative to these amendments. The proposed amendments do not seek to stymie the applicant's proposals but would clarify and correct the process by which those applications and future applications are processed. In accordance with state law, if this ordinance is adopted, the city must hold a public hearing within 60 days following adoption of the ordinance. If adopted, these interim zoning controls would be effective for 6-months before permanent zoning controls must be adopted or these interim controls are extended for another period of up to 6-months.

Staff recommends adoption of the ordinance and the amendments therein as written. After the required public hearing, staff further recommends that the amendments are forwarded to the planning commission for further study and a recommendation back to city council.

FISCAL CONSIDERATION: None.

ATTACHMENTS:

1. Ordinance 1516 (PDF)

STRATEGIC PLAN PRIORITY: None.

ORDINANCE 1516

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ADOPTING INTERIM ZONING CONTROLS PERTAINING TO SITE SPECIFIC REZONES AND HEIGHT RESTRICTION AREA VARIANCES, AMENDING CHAPTERS 17.62, 17.100, 19.01 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, under the authority of RCW 35A.63.220 and RCW 36.70A.390, the City may impose interim regulations to be effective for a period of up to six months, and for six-month intervals thereafter; and

WHEREAS, Chapter 17.62 of the Gig Harbor Municipal Code (GHMC) describes the city's height restriction area (HRA), related standards, and sets forth the procedure for processing an application to amend the HRA; and

WHEREAS, upon careful review of Chapter 17.62 GHMC city staff has found an ambiguity in how the HRA map is adopted and how amendments to the map are processed; and

WHEREAS, current code adopts the HRA as an overlay on the city's HRA map and amendments thereto are processed as a Type III permit application, which provides the city's hearing examiner with the authority to make the final decision and, if approved, results in removal of the subject site from the HRA map; and

WHEREAS, upon review of the historical legislative record relative to Chapter 17.62 GHMC, city staff found that the HRA map was originally adopted as a zoning overlay on the city's zoning map; and

WHEREAS, a proposal to remove a site from an adopted zoning overlay should be considered a site-specific rezone, while a proposal to vary from the standards of the city's development regulations, unless otherwise specified, is typically processed as a variance in accordance with the provisions of Chapter 17.66 GHMC; and

WHEREAS, Chapter 19.01 GHMC sets forth the procedures for processing the city's defined permit application types; and

WHEREAS, site-specific rezones are currently categorized as a Type III permit application whereby the city's hearing examiner holds a public hearing and makes the final decision; and

WHEREAS, site-specific rezones are considered a quasi-judicial decision which is the purview of city council; and

WHEREAS, quasi-judicial decisions are considered a Type IV permit application whereby the city council conducts a public hearing and makes the final decision; and

WHEREAS, due the technical nature of a site-specific rezone, it would be proper for the city council to cede the hearing and receive a recommendation from the city's hearing examiner relative to a specific proposal; and

WHEREAS, the Gig Harbor City Council would like to make certain changes to the city's development regulations and administrative development regulations on an interim basis to provide city staff and the planning commission time to study these matters and make recommendations on permanent regulations relative to processing applications for site-specific rezones and height restriction area variances;

NOW THEREFORE, the City Council of the City of Gig Harbor, Washington, do ordain as follows:

Section 1. The recitals set forth herein are hereby adopted as findings of fact.

Section 2. Section 17.62.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.62.020 Map-adoptedHeight restriction area map. The standards of this chapter shall be imposed as an overlay zone shown on the city's official height restriction area zoning map, which depicts the property subject to the height restrictions. The boundary for the height restriction area overlay shall be that which was published on the city's former height restriction area map last updated on October 4, 2016.¹ The process for amending the city's zoning map is set forth in Chapter 17.100 GHMC. The standards of this chapter are supplementary to the regulations contained in the underlying zones.

Section 3. Section 17.62.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.62.040 Amendment to height restriction area map Height restriction area variance. ~~Amendments to the height restriction area map are a Type III permit procedure. The procedures established under Chapter 17.100 GHMC and GHMC Title 19 for the consideration of amendments to the zoning district map shall be followed for amendments to the height restriction area map. The criteria for approval shall be as follows: Variances from the standards of this section shall be project specific and subject to the complete application requirements, permit application procedures, required findings and duration of approval requirements set forth in Chapter 17.66~~

¹ City Ordinance Number 1342

GHMC for general variances. In addition, the hearing examiner shall make findings of fact setting forth and demonstrating that the following circumstances exist:

- A. ~~That the~~The request to amend the height restriction area map furthers the goals, policies and objectives of the comprehensive plan;
- B. ~~The property or area proposed for exclusion from the height restriction area map site~~ does not currently possess a view of Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows;
- C. The gradient of the land within 100 feet of the property or area does not have a slope of five percent or greater toward Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows;
- D. ~~That views~~Views from adjacent properties will not be adversely affected.

Section 4. 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 Chapter 19.02 GHMC.~~

Section 5. Section 17.100.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.100.020 Manner of initiation. Changes in this title may be initiated in the following manner:

- A. *Source.*
 - 1. The city council upon its own motion may initiate changes in this title.
 - 2. The planning commission upon its own motion may ~~initiate~~recommend to city council changes in this title.
 - 3. Any individual, corporation or agency other than those listed above may initiate changes in this title. Amendments are processed as a ~~Type IV permit procedure~~ set forth in Chapter 19.01 GHMC and subject to the following:
 - a. ~~For an area-wide zoning map amendment~~, the initiating individual, corporation or agency must be the owners or owner of a majority of the land in the petition area; and
 - b. ~~For a site-specific zoning map amendment~~, the initiating individual, corporation or agency must be the property owner or authorized agent of the property owner; and
 - ~~b.c.~~ For an amendment to the text of this title, the initiating individual, corporation or agency must be an owner of real property within the city.
- B. *Form.* An application for a change in the boundary of a district or the text of this title shall be filed with the planning department and shall be accompanied by such data and

information as are necessary to assure the fullest practicable presentation of the facts. It shall set forth reasons and justification for proposing a change.

C. *Minimum Area.* Except for the extension of existing district boundaries and amendments to zoning overlays, no change in any use district, classification or official zoning map shall be considered if it contains fewer than two acres, excluding public streets or alley rights-of-way.

D. *Submittal Consideration.* The city council shall not consider any proposed amendment to the zoning map that is substantially the same as any other proposed amendment submitted within the previous 12 months which was disapproved. (Ord. 710 § 97, 1996; Ord. 573 § 2, 1990).

E. *Fees.* Applications submitted by private individuals or groups, or private entities are subject to application and processing fees as set forth in the city's adopted fee schedule.

Section 6. Section 17.100.025 of the Gig Harbor Municipal Code is hereby repealed.

Section 7. Section 17.100.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.100.030 Public hearing and notification. Public hearings and notifications related thereto shall be accomplished in accordance with the procedures and requirements established pursuant to Chapter [19.05](#) GHMC. ~~The planning commission's action shall be a recommendation to the city council.~~

Section 8. 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. Applications for amendments to the 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. The application for the zoning district map amendment must be consistent with and further the goals, policies and objectives of the comprehensive plan and Chapter [17.12.015](#) GHMC;

B. The application for the zoning district amendment must further or bear a substantial relationship to the public health, safety and general welfare;

C. No substantial detrimental effect will be caused by the granting of the application for the 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 9. A new section is hereby added to Chapter 17.100 to read as follows:

17.100.040 General criteria for zoning text amendment. The city council's approval, modification, deferral, or denial of an amendment application must be based on the following criteria:

A. The proposed amendment is consistent with the goals, objectives, and policies for the comprehensive plan; and

B. The proposed amendment is consistent with the intent and purpose of the subject chapter or this title, generally.

Section 10. Section 19.01.003 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.01.003 Project permit application framework.

A. Action Type.

	PROCEDURE FOR PROJECT PERMIT APPLICATIONS (TYPE I – IV)					LEGISLATIVE
	TYPE I	TYPE II	TYPE III	TYPE III-A	TYPE IV	TYPE V
Recommendation made by:	N/A	N/A	N/A	N/A	N/A; <u>hearing examiner for site specific rezones</u>	Planning commission
Final decision made by:	Director	Director	Hearing examiner	Hearing examiner	City council	City council
Notice of application:	No	Yes	Yes	Yes	Yes	No
Open record public hearing or open record appeal of a final decision:	No	Only if appealed, open record hearing before hearing examiner	Yes, before hearing examiner to render final decision	Yes, before hearing examiner to render final decision	No	Yes, before planning commission which makes recommendation to council
Closed record appeal/final decision:	No	No	No, only if <u>site-specific rezone</u> appealed,	No	Yes, before council to render	Yes, or council could hold its own hearing

			then before council		final decision	
Judicial appeal:	Yes	Yes	Yes	Yes	Yes	Yes

B. Decisions.

TYPE I	TYPE II	TYPE III	TYPE III-A	TYPE IV	TYPE V
Final short plat	Preliminary short plat	Plat vacations and alterations	Preliminary plats/major preliminary plat revisions	Final plats	Comprehensive plan amendments
Minor site plan review	Major site plan review	Conditional use permit	Preliminary PRD/PUD	Final PRD/PUD	Development regulation amendments
Minor amendments to PUD/PRD	Alternative design review ¹	General variances, sign permit variances, <u>height restriction area variance</u>	Major amendment to PRD	<u>Site-specific rezone</u> ²	Zoning text amendments; area-wide zoning map amendments
Special use permits	Binding site plan	Shoreline substantial development, shoreline variance, shoreline conditional use			Annexations
Temporary trailers	Revisions to shoreline management permits ²	Major amendments to PUD			
Sign permits	Administrative variances	Amendment to <u>height restriction area map</u>			
Administrative design review ¹	Administrative interpretations	Mobile/manufactured home park or subdivision			

² A site-specific rezone may have only one public hearing to be conducted by the city's hearing examiner.

Land clearing	Shoreline permit exemptions ²	Performance-based height exception			
Home occupation permit	Short-term rental permit	Changes from one nonconforming use to another			
Alternative landscape plan		Site-specific rezone			
Nonconforming review		Critical area variances			
Minor preliminary plat revisions		Critical area reasonable use exceptions			
Boundary line adjustment					

Section 11. Transmittal to Department of Commerce. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce, as required by law.

Section 12. Hearing. In accordance with the requirements of state law, a public hearing on these interim regulations will be held within 60-days of adoption of this ordinance.

Section 13. Duration of Interim Zoning Control. The interim zoning control adopted herein shall be in effect for a period of 6-months, commencing on the effective date of this ordinance unless the city council shall adopt appropriate permanent development regulations which replace this interim ordinance, or unless the same is extended as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the Gig Harbor City Council.

Section 14. Severability. If any section, sentence, clause, or phrase of this ordinance shall 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 15. Correction of Errors. The city clerk and codifiers of the ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 16. 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.

ADOPTED by the City Council of the City of Gig Harbor at a regular meeting thereof, held this 7th day of September, 2023.

Tracie Markley
Mayor

Approved as to form:

Attest:

Daniel Kenny
City Attorney

Joshua Stecker, CMC
City Clerk



**City of Gig Harbor
City Council Meeting Agenda Bill**

Meeting Date: September 7, 2023

SUBJECT: Proposed Water Utility Rate Tiers

SUBMITTED BY: Public Works Director Jeff Langhelm

DEPARTMENT: Public Works

PHONE: (253) 853-7630

SUGGESTED MOTION: None.

BACKGROUND INFORMATION:

The city operates three utilities (water, wastewater, and stormwater) as independent enterprise funds. At the [July 20 city council study session](#), staff and our consultant, Ashley Emery with Peninsula Financial Consulting (PFC), presented the on-going maintenance, operating, and capital needs of the city's three utilities along with proposed rate adjustments for rate adjustments for each utility.

One key structural change to the city's water utility rates that has been proposed by staff is to establish tiered water rates. As directed through the June 2023 contract amendment with PFC and as a continuation of the July 20 study session, staff and PFC will present findings and considerations for tiered water rates at the September 7 study session.

Currently, the city's monthly water rates include a base charge and a consumption charge. The consumption charge is the same per unit of water (hundred cubic foot, CCF) regardless of how much water is consumed. The tiered water rates under consideration would provide a total of four tiers of rates that increase the unit cost as the number of units consumed is increased. Staff and PFC have considered applying these tiered rates across all customer classes (residential, multifamily, commercial, and government.)

At the September 7 study session, staff and PFC will review how AWWA equivalent meter factors (see attached table) are associated with water base rates, present options for establishing tiered water rates, and compare revenues for tiered water rates to existing and future water rate structures.

FISCAL CONSIDERATION: None.

ATTACHMENTS:

1. WUTC AWWA Meter Factor Sizes (PDF)

STRATEGIC PLAN PRIORITY: Ensure sustainable future for public services and facilities.

Washington Utilities and Transportation Commission

AWWA Water Meter Factor Sizes

Meter Size	AWWA Capacity (gpm)	Factor based on 5/8 inch	Factor based on 3/4 inch	Factor based on 1 inch
5/8 inch	20	1.00	0.67	0.40
3/4 inch	30	1.50	1.00	0.60
1 inch	50	2.50	1.67	1.00
1-1/2 inch	100	5.00	3.33	2.00
2 inch	160	8.00	5.33	3.20
3 inch	300	15.00	10.00	6.00
4 inch	500	25.00	16.67	10.00
6 inch	1,000	50.00	33.33	20.00
8 inch	1,600	80.00	53.33	32.00
10 inch	2,300	115.00	76.67	46.00
12 inch	4,300	215.00	143.33	86.00