

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session and Public Hearing
March 6, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Theresa Malich, Jill Guernsey, Joyce Ninen, Jeane Derebey and Dick Allen. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

APPROVAL OF MINUTES

MOTION: Move to approve the minutes of February 7th, 2008. Ninen/Allen – Motion passed unanimously.

Discussion followed on the minutes of February 21, 2008. The following changes were suggested by Ms. Ninen and agreed to by the commission.

On page 1 change Mr. Atkins *asked* to Mr. Atkins *stated*.

Page 2 add *that RB-1 was appropriate*.

Typo on page 2 *Soundview*.

Page 3 change *than* to *then*.

Page 3 remove second that

Talking point 2 – replace *with talking point #2* with *that non conforming structures comply with as many applicable codes as possible*.

Page 3, add *the structure*.

Remove *Ms. Malich agreed suggesting that there would be no need to further discuss this item*.

MOTION: Move to approve the minutes with the changes discussed. Ninen/Guernsey – Motion passed unanimously.

WORK-STUDY SESSION

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335** – ZONE 08-0001 – Nonconforming use and structure amendments.

Senior Planner Jennifer Kester went over the proposed changes to the ordinance as a result of the previous meeting. She noted that the council has passed ordinance 1122 which allows for reconstruction of non conforming structures due to acts of nature. Ms. Kester stated that due to the extent of the requirements in this section it should probably say that there is a specific permit necessary for a non conforming use and/or structure. She then went over the section on nonconforming uses of land. She stated that the commission had been interested in what codes would have to be met in order to rebuild

and Ms. Kester referred them to her staff report where it listed the codes that may be used for review.

Mr. Pasin asked about the eight codes and would there be a problem with concurrency. Ms. Kester explained that there is an engineering clause that allows for use of their previous concurrency for five years. Mr. Atkins clarified that if the city was under a moratorium and the use was completely destroyed it would not affect their ability to rebuild. Ms. Kester confirmed that was correct. Ms. Guernsey asked about the sign ordinance and it was clarified that they may need to bring the sign into compliance. She then asked about the reference to Chapter 17.01 and asked if it should be Title 17 and Ms. Kester said she would check the reference.

Mr. Pasin asked about page 1 where it talks about a replacement value, and asked why use replacement value instead of the square footage of the structure? Ms. Kester said that in the past this was how we measured non conformity. He asked how the replacement value is determined and Ms. Kester explained how it is determined in the building code. Mr. Pasin thought the replacement value was subjective. Ms. Kester explained that she thought that it was replacement value because it could be just a wall that does not involve any square footage. Mr. Pasin then asked about the term "lifetime". Mr. Dolan stated that that section is only for when an owner wants to voluntarily demolish his structure. Mr. Pasin stated that he was concerned about using both terms "use" and "structure" and Mr. Dolan explained that it is done intentionally as they are two very different things. Mr. Pasin then asked what does "otherwise lawful" mean in 17.68.040 and Ms. Kester explained that it may be in violation of fire codes. Mr. Pasin asked if .040 (a) should say "currently" in effect. Everyone thought it was fine as it was.

Ms. Derebey thought maybe there should be a reference to "for the purpose of remodeling" and Ms. Kester said that it would be difficult to determine their intent in demolishing a structure. It was decided to perhaps change intentional destruction to intentional alteration. Ms. Kester then went over the proposed order of the sections.

Ms. Derebey suggested that the discontinuance of nonconforming structures and uses be changed to uses and structures and Ms. Kester agreed.

Ms. Kester pointed out the statement that nonconformities shall comply with all other applicable codes to the extent possible. Mr. Pasin asked about the requirement to comply with applicable codes and gave an example that if part of the building is destroyed and you have to have it meet design (i.e., historic windows) and then the rest of the building does not have those types of windows. Ms. Kester went over various scenarios and that it may be difficult to determine what is the extent possible in a theoretical manner without an actual application to review. Mr. Dolan addressed the historic window solution and stated he couldn't imagine requiring three windows to look different from the rest of the building. Ms. Guernsey thought that the previous discussion was that they had to make application within one year not that it had to be

completed. Ms. Kester referred her to ordinance 1122 on page four where it states that the application had to be made within a year.

Chairman Malich called a 5 minute recess at 6:56. The meeting was reconvened at 7:04 p.m.

PUBLIC HEARING

1. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.

Ms. Kester went over the request by City Council for removal of the Mixed Use District overlay. She explained the two options; Option A, removal of the overlay entirely and Option B, to implement a new mixed use zone which would be a harmonization of the uses allowed in the MUD overlay and underlying zones. Ms. Kester highlighted the changes. She stated that staff is also recommending a new definition of townhouse in order to implement the standards in the MUD zone.

Chairman Malich opened the public hearing at 7:10 p.m.

Don Wilcox, Burnham Drive, presently zoned B-2 with the MUD overlay. Mr. Wilcox asked how this would affect his property. Ms. Kester pointed out his parcel and explained that if the MUD overlay was removed his property was B-2, if it was the new mixed use zone, the uses would be the same but some of the performance standards may change.

Mark Shoens, 2002 Sullivan Drive NW – Mr. Shoens stated that he owns property on Burnham Drive NW and have been waiting for water, sewer and traffic concurrency. He said he was trying to figure out if he was going to lose some ability to develop his property. Ms. Kester said that he was zoned R-1 with an MUD overlay, she explained the current standards and the two options being presented tonight. He asked why they wanted to remove the overlay and Ms. Kester explained. Mr. Shoen expressed that he would prefer Option B.

Jerry Larimore, 4710 Gay Rd. Tacoma WA – Mr. Larimore stated that he owns property along Burnham Drive and that it sounds like taking something if Option A were implemented so he would prefer Option B. He asked about the tax implications. Ms. Kester explained that without knowing how Pierce County assesses the property now, she couldn't answer. She continued by saying it would depend on if the assessor treasurer currently takes the overlay into consideration.

Chairman Malich closed the public hearing at 7:20 p.m.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments

Chairman Malich opened the public hearing at 7:21 p.m.

Senior Planner Jennifer Kester explained that the proposal is to change the nonconforming use and structures section of code. Ms. Kester explained what this section of code pertains to. She stated that the council recently passed an ordinance that nonconforming residential uses in the R-2 zone and that use burned down or was destroyed by some other act of nature, 100% of it can be rebuilt. She explained what the previous code had stated. She continued by explaining that the City Council asked that the Planning Commission examine whether that should apply to all zones rather than just R-2. She went over some of the changes that would be implemented with this ordinance.

George Pollock, 2808 Harborview Drive – Mr. Pollock said he was very thankful for the passage of Ordinance 1122 and was concerned by the remodel portion of the ordinance. Ms. Kester explained that replacement value only applied to things that would require a building permit, not carpets, lighting, etc. Ms. Kester stated that there were no provisions in today's codes for remodel of nonconforming structures and that this proposal would at least allow for it.

Due to the arrival of additional interested citizens, Chairman Malich re-opened the public hearing on Item 1, Removal of Mixed Use District overlay and determination of appropriate underlying zoning, at 7:25 p.m.

Wade Perrow, 9119 N Harborview Drive – Mr. Perrow stated that he agreed with the idea of removing the MUD overlay. He continued by saying that there are certain elements that can't just be removed.

Jill Guernsey explained the options in the proposal. Mr. Perrow said that he wasn't sure we needed another zone in the city. He asked that the Planning Commission make sure that the city has an adequate employment base.

Ms. Kester assured Mr. Perrow that the uses currently allowed in the overlay would be allowed in the mixed use zone. He stated he didn't think it was the best zoning for the city. He said that he had marked up the matrix to try to illustrate what he felt the zone should be for the area. Ms. Guernsey asked which of the current zoning districts he would suggest for the area. He explained why he thought it should be zoned differently and that this was an opportunity to really examine what should happen in this area. Harris Atkins asked if anyone had further comments after hearing Mr. Perrow's comments.

Mr. Larimore said that he thought that in a mixed use zone you could accomplish what Mr. Perrow was talking about but he also felt that transitioning between zones sounded nice as long as you do not down zone someone's property. Mr. Pasin asked how he envisioned his property being used and he said he didn't know.

Chairman Malich closed the first and second hearing at 7:40 p.m.

3. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district.

Dick Allen and Theresa Malich recused themselves from this item.

Ms. Kester went over the proposal and the proposed changes within it.

Vice Chairman Harris Atkins opened the public hearing at 7:45 p.m.

There being no one wishing to testify Mr. Atkins closed the public hearing at 7:47.

Mr. Atkins called a short recess at 7:48 p.m. The meeting reconvened at 7:50 p.m.

WORK-STUDY SESSION

3. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district.

Ms. Kester noted that there is a technical amendment to go along with this amendment that addresses how we calculate density since we are putting a minimum density in. Mr. Atkins asked if anyone had any reason for not proceeding with asking staff to develop the ordinance. Ms. Guernsey asked if the changing of the density was also part of that and everyone agreed. Ms. Ninen and Ms. Guernsey said they were in favor. Ms. Derebey asked about how density worked and Ms. Kester explained. Ms. Derebey agreed with the proposal. Mr. Pasin said that during previous discussion he had felt that triplexes and fourplexes should just be permitted outright and others had felt differently but he would like to see if anyone had changed their opinion. Ms. Ninen said that they had discussed this at the last meeting and she felt it had to be conditional. Ms. Derebey agreed.

MOTION: Move to forward a recommendation to the City Council to add triplexes and fourplexes as conditional uses in the R-2 zone, set a minimum density of 4 dwelling units per net acre and increase the allowance for impervious coverage from 40% to 60% of the total lot area. Guernsey/Ninen – Motion carried unanimously.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments

Ms. Kester went over the items that they had discussed at the work study session. She asked if 50% replacement value was the right trigger. Mr. Atkins brought up the testimony of the gentleman who was thinking about remodeling his unit interior. Ms. Kester stated that replacement costs are only those things necessary to build the building, not cosmetic things. Mr. Dolan suggested that they make interior remodels exempt. Mr. Atkins stated that he knew of a case where a family moved into a home

where there was no basement so they excavated so they had a full basement and had to put in a new foundation, this would have exceeded the 50%. He added that someone should not be penalized for remodeling their home. Mr. Atkins asked Ms. Malich if she could have done what she did to her home. Ms. Derebey said that Ms. Malich didn't really do any demolition because she didn't really tear anything down. Ms. Kester said that perhaps siding would be part of a replacement cost. Mr. Pasin said that if someone wants to put in new windows, roof, etc they could exceed 50%. Ms. Kester pointed out the section on repair and maintenance. Mr. Pasin said that maybe the question is what is remodel. Ms. Kester gave an example. Mr. Dolan stated that we had a customer with a nonconforming structure that they were going to tear down two walls in 2007 and replace them and then tear down two more in 2008 and replace them. Ms. Malich explained her situation when she tore down her garage that was nonconforming. Ms. Kester said that she really felt that there should be an interior remodel exemption, but the question remains as to how much exterior work is okay.

Mr. Pasin felt that they were trying to put together something that deals with the ugly and have lost sight of the people trying to maintain and update their properties. Mr. Dolan stated that every change here actually makes the code more liberal not more difficult. Discussion followed on the difference between remodel and repair and maintenance. Mr. Atkins said you might have a facility that was nonconforming because it didn't meet setbacks and this might prevent someone from remodeling their home. Ms. Kester explained that if you had a structure that met the front and side but not the rear, then just the portion of the house that is in the setbacks would be nonconforming. Ms. Ninen asked about solar panels and skylights would that be considered a structural change. Mr. Dolan pointed out the provision that nonconforming structures can be remodeled as long as it doesn't increase the nonconformity. Ms. Kester explained it further. Mr. Dolan pointed out that the rebuild provision, if it's damaged by an act of God, is extremely liberal. Mr. Atkins asked what percentage of homes within the historic district were nonconforming and Ms. Kester said that perhaps 75%. She noted that we have approved lots of remodels for nonconforming structures because it doesn't expand the nonconformity. Ms. Guernsey asked if there was a variance provision with this and Ms. Kester went over some variance scenarios. Mr. Pasin said that he felt that the ordinance needed to be broader. Ms. Derebey felt that with the interior remodel exemption this had been hammered out. Mr. Allen asked what if someone has a rundown house and they want to build something new. Mr. Dolan said that they could rebuild but they would have to meet the code or get a variance. Mr. Allen felt that we should appreciate that someone wants to build something new. Ms. Ninen stated that if someone had an old house maybe someone should get it listed as a historic structure. Ms. Guernsey said that she would like to see additional language including what they had discussed.

Ms. Kester said that she would come back at the next meeting with actual code language.

MOTION: Move to direct staff to prepare an ordinance incorporating the changes discussed tonight for our final consideration at the next feasible meeting. Atkins/Derebey –

Mr. Atkins stated that his intent was to include an exemption of interior remodeling and the other items that Ms. Kester had noted within the text. He stated that it is difficult to legislate common sense and asked the commission members to give this issue some thought for further discussion at the next meeting. Mr. Pasin felt that they should be cautious and that just because something gets put within the setbacks it doesn't necessarily improve views. Mr. Allen said that views are not really a consideration.

Motion passed unanimously.

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335** – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.

MOTION: Move to defer this item to the next meeting. Ninen/

Ms. Kester went over the things that were still left to discuss within this quarter. Mr. Atkins went over what the options were and what some of the public had said tonight. He asked what everyone else thought and if they wanted to examine other zones. Ms. Derebey, Ms. Malich and Ms. Ninen stated they liked the new Mixed Use zone. Mr. Pasin said he wanted to discuss it further. Ms. Guernsey thought that Mr. Perrow had a good idea to reexamine the entire area but the City Council really doesn't want the commission to take the time to do that right now. She stated that she prefers Option B assuming that we need to do something now. Mr. Allen said that if it's just a fix then he would prefer Option B unless we want to take on a larger task. Mr. Atkins said he would go with the mixed use Option B, he didn't think that the area was big enough to warrant several different zones.

Ms. Ninen's motion died for lack of a second.

MOTION: Move to forward a recommendation to the City Council for the text amendment as written on the condition that the ordinance is brought back for review.

Ms. Kester pointed out that it is really an area-wide rezone and Mr. Atkins withdrew his motion.

MOTION: Move to have staff prepare an area wide rezone for the mixed use district with the currently configured boundaries. Atkins/Ninen – Motion passed unanimously.

ADJOURNMENT

MOTION: Move to adjourn at 8:50 p.m. Ninen/Derebey – Motion passed.