

**PLANNING COMMISSION  
SPECIAL MEETING  
OAK HARBOR MUNICIPAL SHOPS  
AUGUST 14, 2012**

**ROLL CALL: Present:** Bruce Neil, Greg Wasinger, Keith Fakkema and Jill Johnson-Pfeiffer.  
**Absent:** Gerry Oliver, Jeff Wallin and Kristi Jensen.  
**Staff Present:** Senior Planners, Ethan Spoo and Cac Kamak.

Chairman Neil called the meeting to order at 5:10 p.m.

**MINUTES: THE JULY 28<sup>TH</sup> PLANNING COMMISSION MINUTES WILL BE PRESENTED AT THE REGULAR BUSINESS MEETING ON AUGUST 28, 2012.**

**PUBLIC COMMENT:**

No comments.

**SHORELINE MASTER PROGRAM (SMP) – Public Meeting**

Mr. Spoo reported that the draft SMP was sent to the Department of Ecology's at the end of April and their first review comments have been received. None of the comments require reworking the SMP. The comments regarded the Critical Areas section in Chapter 3. The science has changed since our Critical Areas Ordinance was written so staff is working on those comments. There were also comments about definitions in Chapter 7.

Mr. Spoo presented Chapter 4 – Shoreline Use Provisions and highlighted the Shoreline Use Table which contains the permitted, conditional, and prohibited uses for each of the environment designations. Mr. Spoo pointed out that boating facilities are generally prohibited in all of the zones except for the Maritime environment designation along Maylor Point where the existing Marina is located and is allowed conditionally in the Urban Public Facility designation which is the designation that applies to Flintstone Park. In the instance that someday there is some sort of pier/marina at that location.

Public piers are allowed in the Maritime designation and Urban Public Facility designation and allow conditionally in the Urban Mixed Use which is the area adjacent to the condominiums and most of downtown.

Commercial Uses are to be water dependent or water oriented uses and are permitted in the Maritime, Urban Mixed Use and prohibited elsewhere and are allow conditionally in Urban Public Facilities. This is to capture the eventual build out to Windjammer Park. There may be some sort of an assessor commercial that happens there along with the uses that develop in the park in terms of vendors. Non water oriented uses are allowed conditionally in Maritime, Urban Mixed Use and Urban Public Facilities.

Mr. Wasinger asked if a boat builder could only be in the Urban Mixed Use. Mr. Spoo said that a boat builder is water dependent and could be in the Maritime, Urban Mixed Use or conditionally in Urban Public Facilities but there would be limitations in the Urban Public Facilities mostly due to the size.

Mr. Spoo continued on to residential uses. Single-family residential uses are allowed in Urban Mixed Use, Residential, Residential Bluff Conservancy and prohibited elsewhere. There is one location where multifamily is allowed which is Urban Mixed Use (where the condominiums are) and prohibited everywhere else.

Wastewater Treatment Plants were allowed conditionally in Maritime, Urban Mixed Use, Urban Public Facility and Conservancy. Conservancy is the area out along Crescent Harbor which is one of the sites that was discussed early on. There is the potential that these designations could be narrowed down since Council has narrowed down the sites for the Wastewater Treatment Plant but if for some reason the sites change we may want to leave the options open.

Mr. Spoo reviewed the Summary of Shoreline Development Standards. This table contains:

Maximum height:

Meant to preserve visual access (views) to water.  
Generally, 35 feet. 55 feet in Urban Mixed Use and Maritime.  
View corridor study needed over 35 feet.

Setbacks:

50 feet from OHWM, except 75 in UPF & 100 Conservancy.  
Bluff – as recommended by geotechnical engineer, no less than 25 feet.  
Averaging is allowed.

Impervious Surfaces:

The closer to the shoreline the less impervious surface is allowed.

Mr. Spoo reviewed the Shoreline Use Provisions which are the specifics about the types of uses and the policies and regulations that apply to those uses. Boating facilities and marinas includes piers, marinas, public boat launches. The location, materials, size, number are regulated. For example, 24% of open area is required for overwater structures. Creosote treated wood is not allowed. For Commercial uses, no new overwater commercial uses are allowed, except accessory to a water dependent use. For Industrial Uses, only water-dependent industrial is allowed in the Maritime shoreline environment designation.

Residential uses are priority under SMA and the proper management of these uses include avoiding stabilization, no overwater residences, conserve vegetation, limit impervious surfaces and discourage septic systems.

#### Planning Commission Discussion

Mr. Fakkema asked if a restaurant could be built at the end of the pier if the Marina went away. Mr. Spoo said that he believe the regulations would discourage that from happening. Mr. Kamak said that if the Marina went out of business that the City would do an amendment to the SMP.

**Ken Hulett** (2820 SW Scenic Heights Street) asked for an example of 24% open area. Mr. Spoo explained that it is a light passage issue and the shoreline science says that juvenile salmon that pass under the dock need that light because it makes it hard for them to see their predators. The gaps between the wood boards of a dock could count toward the 24% but you may have to have other grating in order to achieve the 24%.

Mr. Wasinger asked staff if Carl Freund's issue regarding Freund Marsh has been resolved. Mr. Spoo explained that the boundary over the Freund Marsh area follows a study that was done by

the National Wetland Inventory. The study was based on aerial photos and soils so the wetland boundaries are not completely accurate. Someone would have to go out in the field and delineated exactly what the boundaries of that wetland are. Mr. Freund was concerned that some of his property in that area was shown as being in the SMP and being in wetland when they are not. Staff worked with Mr. Freund and discovered that the vacant piece of property north of Dillard's Addition was approved for fill by the Army Corps of Engineers and that means that the Corps will not allow fill in an area that is wetlands. So if they approved this as a fill location we know it is not wetlands. So there is the potential that we will remove that property out of the shoreline designation later on. Ms. Johnson-Pieffer asked if the property would be removed from shoreline designation before final approval. Mr. Spoo said that it would likely be changed in November.

Ms. Johnson-Pieffer asked if the shoreline moves inland will the setback keep moving as well. Mr. Spoo said that the SMP is based on no net loss which means that the conditions on the ground today is what we will measure against going forward. The SMP isn't going to require people in the future to move their house that they have now to comply with these standards. Mr. Spoo explained that the setback is measured from the ordinary high watermark and when you come to the City with a shoreline substantial development permit then it is the applicant's responsibility to document where the ordinary high watermark is at that time. The applicant will usually employ a surveyor and sometimes a biologist to confer on where the high watermark is. There is a process in the SMP where you can document where the high water mark is and it won't change in the future. Mr. Spoo said would benefit a property owner to be proactive and document the ordinary high watermark.

**Ken Hulett** (2820 SW Scenic Heights Street) asked about the conservancy area out on Crescent Harbor. He wanted to know how that area became part of the shoreline jurisdiction. Mr. Spoo explained that the shoreline jurisdiction is generally within 200 feet of the ordinary high watermark. The conservancy area is wetlands.

## **2012 COMPREHENSIVE PLAN AMENDMENT DISCUSSION**

Mr. Kamak reported that the City Council approved the 2012 Comprehensive Amendment Docket to include consideration of land use amendments to properties adjacent to the marina. The intent of the land use amendment is to consider a designation that would allow additional uses that support the marina and other water-oriented uses. The current land use designation is PF, Public Facilities. Mr. Kamak noted some of the uses to consider as follows:

### Permitted Uses

- Marina
- Accessory uses to the marina such as storage sheds, parking lots, boat and trailer storage
- Private clubs ancillary to the marina
- Private boat yards and storage
- Boat and ship builders
- Water-dependent uses – ferry and passenger terminals, ship building and dry docking, float plane facilities, sewer and storm outfalls and similar uses.
- Water-related uses – warehousing of goods transported by water
- Parks and trails

### Conditional Uses

- Principal permitted uses in the Central Business District (CBD) except residential dwelling units

Mr. Kamak explained that the three methods to address changing the land use designation for the properties adjacent to the marina (text amendment, overlay zones and creating a new land use and zoning designation).

The Text Amendment method can introduce the additional uses that are desirable into the existing PF, Public Facilities zoning classification. However, unless otherwise restricted adding these uses to the existing zoning classification will allow them to be permitted wherever there is PF, Public Facility designations in the City such as Windjammer Park, Flintstone Park, schools etc. Since some of these uses may not be desirable in other locations, it can potentially lead to challenging issues in the future.

The Overlay Zone method is a regulatory tool that creates a special zoning district, placed over an existing base zone(s), which identifies special provisions in addition to those in the underlying base zone. Overlay zones are used to protect resources such as environmentally sensitive areas, historic district, or encourage or discourage specific types of development. In this case, the overlay zone would encourage additional uses above and beyond what is currently permitted in the underlying base zone. An overlay zone has a clearly defined boundary and can be created by adding a section in the zoning ordinance describing its intent and the uses that would be permitted. The drawback of an overlay zone is the potential for conflict between regulations or requirements between the underlying base zone and the overlay zone, especially if the overlay zone is trying to accommodate many uses that the underlying zone does not permit.

The new land use category method would create a new land use category in the Comprehensive Plan and create a corresponding zoning code section. Choosing to create a new land use category to address a small area in the city appears like a major change. However, in the future, if the Navy made more land available at the seaplane base for private or public development, this land use category can be used to designate the area and encourage development.

Mr. Kamak concluded by recommending that the Planning Commission discuss the issue and gather input from the public on uses to consider/accommodate in the area. The Commission's discussion and public input will help create a framework and establish a preference for methodology to consider changes in the area.

#### Planning Commission Discussion

Mr. Fakkema thought the overlay method was confusing and the least attractive.

Mr. Neil liked the new land use category method.

Mr. Fakkema, Mr. Wasinger and Mr. Neil liked the idea of using the Maritime designation as the new land use category.

Mr. Hewett commented that the good news is that it would apply to a small piece of property.

Mr. Kamak added that the SMP has the Maritime designation spans from Oak Harbor Bay to Crescent Harbor Bay. What we are talking about in the new land use category is limited only to the marina upland improvements primarily because Navy property is not available to do

anything else. In the future if rules change and the Navy decides to open up some of the property for some other development what is the best way that we can take whatever we have along the shore and expand it further. We can look at the SMP that designates Maritime and see that this zoning can easily transfer if the Navy opens up the land.

Ms. Johnson-Pieffer asked why there isn't zoning on the Navy property already. Mr. Kamak said that there a classification called Navy property. We haven't taken the time to detail out what is allow in that classification primarily because the Navy doesn't have to follow whatever we define is allowed and we wouldn't want to create any point where someone is out of compliance with our zoning. If the Navy were to open up the property it would be a process that would take many years and the City would have advance notice.

Commissioners discussed permitted uses and conditional uses that the new land use category could accommodate. Commissioners discussed the compatibility of certain uses such as boat building and hotels seasonal non-permanent structures (kiosks etc). Mr. Kamak noted that the SMP doesn't allow any lodging or residential in the Maritime designation because it is in the commercial and industrial category. If over the next 10 to 15 years and there is no boat building business that comes forward and the marina gets investment from other industry the City will be able to reevaluate Maritime designation. The non-permanent structures fall under temporary use regulations.

Planning Commissioners directed staff to move ahead with the staff recommendations for permitted and conditional uses allowed in the new land use category.

**ADJOURN: 6:25 p.m.**