

**PLANNING COMMISSION  
REGULAR MEETING  
CITY HALL – COUNCIL CHAMBERS  
March 27, 2012**

**ROLL CALL: Present:** Keith Fakkema, Kristi Jensen, Jeff Wallin, Gerry Oliver, Jill Johnson-Pfeiffer and Greg Wasinger.

**Absent:** Bruce Neil.

**Staff Present:** Development Services Director, Steve Powers; Senior Planners, Ethan Spoo and Cac Kamak and Associate Planner, Melissa Sartorius.

Vice Chairman Fakkema called the meeting to order at 7:30 p.m.

**MINUTES: MR. OLIVER MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO APPROVE THE FEBRUARY 28, 2012 MINUTES AS PRESENTED.**

**PUBLIC COMMENT:**

No comments.

**SIGN CODE UPDATE – Public Hearing**

Mr. Spoo reported that there have been three previous meetings of the Planning Commission on this topic. Mr. Spoo noted that staff is recommending that Planning Commission not conduct a public hearing and make a recommendation tonight but to take public comment.

Mr. Spoo explained that the interim code was initially adopted in July of 2011 for a period of six months. The City Council extended the interim sign code for another 6 months in December of last year which made the interim code valid until July of 2012. Last month, staff and Planning Commission discussions led to an expanded scope for this project. Rather than just talking about political signs on public property, we began talking about both political and non-political signs on public and private property which led to discussion about necessary public involvement which we'll have tonight. Because of the expanded scope of the project, staff suggests that the City adopt the interim code this July, while at the same time continuing to work on this draft sign code. We recognize that with the expanded scope of this project it's unlikely that we can conclude discussions with Planning Commission and City Council by July of this year.

Mr. Spoo discussed the three basic sections of the draft code in section 19.36.080:

- Permits for temporary signs
- Temporary signs on private property
- Temporary signs on public property

**Permits for Temporary Signs**

Mr. Spoo explained that the draft code proposes a permit system based on comments we received from Planning Commission and it is an effort to address comments Planning Commission made about the prevalence of these types of signs. The permit system would be the most simple permit system available under Oak Harbor code, a review process 1, staff compliance review. There would be no cost to applicants for staff to review these permits. Provided that complete information is submitted, the review would be a 2-day process. The

point is to inform applicants about appropriate placement of temporary signs prior to placement of the sign. It's a proactive approach, rather than relying on enforcement.

#### Temporary signs on private property

Proposed changes:

- (1) Time limits for temporary signs. The existing code does not define temporary by any specific timeframe. Some types of temporary signs can stay up indefinitely. The draft code proposes that 6 mos. in a calendar year be the limit, except for real estate and political signs which subject to more specific timeframes. Real estate signs generally can stay up during the time the property/unit is for sale or rent. Political signs don't have a pre-election time limit, but are required to be removed 7 days after an election.
- (2) Responding to Planning Commission's comments about the quality of A-frame signs, the draft code requires that there be no hand-draw letters or graphics.

#### Temporary signs on public property

Proposed changes:

- (1) A limit on the type of signs that can happen on public property to four types: political signs, real estate open house signs, portable A-frame signs and garage sale signs.
- (2) A limit on the location of these signs to planter strips and sidewalk of the right-of-way. With exceptions for Windjammer Park Little League fields, Gateway-Beeksma Park, and the City's solid waste vehicle.
- (3) Limits on the size and height of temporary signs within the public right-of-way for safety reasons. There are provisions addressing the quality of these signs, no hand-drawn letters or graphics. And there are provisions allowing City staff to remove these signs for maintenance purposes.
- (4) More specific standards for political, open house, A-frames, garage sale signs.  
Garage sale signs – exception for hand-drawn letters and graphics.

Mr. Spoo summarized the issued addressed:

- Location: not allowed in parks, vehicles, buildings w/ certain exceptions
- Timeframes – 6 mos./year w/ exceptions
- Permit system
- Quality – no hand-drawn or hand-painted signs
- Limits on number of signs

Mr. Spoo noted that since the scope has expanded to look at temporary signs on both public and private properties it is necessary to target involvement with the following groups and possibly attending a merchant's meeting in downtown.

- Stakeholders: merchants/business owners, political candidates, general public
- More specific merchant involvement.
- General public: important stakeholders. Looking for more targeted ways to involve them.

Ms. Jensen commented that she would like expand the list of parks that temporary signs are allowed i.e. Ft. Nugent Park, because that is where the temporary signs are put to remind parents it is time to sign up for soccer etc.

Ms. Jensen commented that the City of Edmonds sign ordinance states that off-premises campaign signs shall be posted and displayed no earlier than upon declaration of candidacy. In accordance with RCW 29.15. Mr. Spoo said staff would look in to the RCW but thought that it might not be legal to limit political speech.

Mr. Fakkema opened the meeting for public comment.

**Bob Olsen** (1371 NE 7<sup>th</sup> Place and Pioneer Way business owner) commented that he heard and was concerned that banners, flags and kites might not be allowed on Pioneer Way.

**Karen Muller** (Wind and Tide Book Shop) was concerned about not being allowed to have hand painted signs or any artistic graphic signs. Mr. Powers said that it is possible to make a distinction between less than neatly done (i.e. spray paint on a piece of plywood) and artistic professional quality.

Being no further public comment the Planning Commission began their discussion.

Ms. Jensen commented that she didn't think the size limits were adequate because cars block the view of the A-frame signs and flags. Mr. Spoo noted that there are only the four types of signs allow in the public right-of-way currently (political, garage sale, real estate and A-frames). But if the Commission believes that flag banners should be added to the list of allowed signs that could be done and it is local preference. Mr. Spoo suggested deferring the question until there is further public input. Mr. Powers added that the Commission could consider is whether or not all street environments should be treated equally for those types of signs. It may make sense in the Pioneer Way area but not make as much sense in a more car oriented environment along the highway.

Mr. Wallin asked if Mr. Power meant that the Commission could specify certain section so the City that flag banners. Mr. Powers said it could be done by zoning district.

Mr. Wallin stated that he prefer the flag banners be kept near the curb and the poles should not be made of PVC and should be regulated as far as the structure of the flag banners for safety reasons.

Ms. Johnson-Pfeiffer asked if content couldn't be regulated on the flag banners. Mr. Powers said that language could be crafted to say that no message would be allowed on flag banners and would only be decorative in nature.

Ms. Jensen asked what if the flag banner said "Open". Mr. Powers said there may be a way to craft a sign which provides the "open" idea without getting into the idea of a message.

Ms. Johnson-Pfeiffer said that she had general concerns about getting into a situation where staff is asked to make determination what is aesthetically pleasing and what isn't. She wondered how enforceable interpreting style can be. Everyone has a different opinion and will not agree on style. Mr. Spoo said that it is possible to address aesthetics of commercial signs (i.e. Coupeville) as long as you are not disadvantaging a certain type of speech, especially political speech. Mr. Powers read an excerpt from the current code addresses A-frame signs

and says, "All artistic embellishments and lettering shall have the appearance of professionalism."

Ms. Jensen suggested adding guidelines that say not sun faded, not tattered etc. She didn't believe there would be 50 people putting up 50 different flags and she liked seeing different things it makes it fun. Mr. Powers said he appreciated Ms. Jensen's confidence in people being able to police themselves but from experience that isn't always the case and sometimes it takes nudging from the City to remind folks that there signs or banners have gone past their useful life. The vast majority would change the sign or banner because they want to make a good impression but that is not always the case. This is a particularly difficult area for code enforcement because when we approach business and say that your sign has gone past it life or the banner is tattered it is sometimes viewed as an affront on that business.

Ms. Johnson-Pfeiffer commented that the permit process is a no fee permit but there is a cost to the City to issue some type of permitting. She said she wasn't a big fan of fees but asked if the City was going to implement a permitting process that has no revenue stream for. Mr. Spoo acknowledged that was correct and it is more of an information transfer process. There would be some staff time dedicated to reviewing permits for temporary signs and we don't think it will be very much time because it is a one page application that asked for a description or a picture of the sign and show where the temporary sign will be placed. We are trying not to discourage temporary signs but to find a friendly way of getting compliance with the regulations.

Ms. Johnson-Pfeiffer asked what the communication process would be to let people know that they have to get a permit and what would be the consequences to businesses that didn't get a permit. Mr. Powers said one of the avenues of communication would be to work with the sign companies that would produce the A-frame signs. The City would also reach out to the business community. This would be a phased implementation. On the code compliance side would start with a health length of time where it is all about the message. The permit process was a response to what staff thought were the Planning Commission's concerns about the proliferation of temporary signs throughout the community. There may be another way to get at that issue besides a permit process and another important point is that even if the Planning Commission recommends approval of it the Council has the final determination.

Ms. Johnson-Pfeiffer commented that she wasn't completely comfortable with the permitting process. She preferred more than an educational process versus a regulation mechanism like permits.

Mr. Wasinger asked if the permit process was aimed at temporary signs on both public and private property. Mr. Spoo said confirmed that was correct and the one exception would be window signs. Mr. Wasinger asked if a back board for a banner that changes every month would be a temporary sign code. Mr. Spoo said that would fall under the temporary sign code and would be allowed for six months of the calendar year.

Mr. Oliver asked about the dancing sign holder signs. Mr. Spoo said that those were not one of the four listed types assigns that are allowed in the public right-of-way. But it was unlikely that the City would force a person with a sign to leave the public right-of-way.

Mr. Oliver asked about the A-frame real estate open house signs. Mr. Oliver commented that the goal was to drive people to the property and open house signs are up between two to four hours and then remove. Mr. Oliver suggested that the number of real estate signs allowed be more than three. Mr. Spoo said that was something that could be looked at.

Ms. Jensen suggested that five real estate open house signs be allowed.

Mr. Oliver asked if there was some sort of guarantee that the permit would be ready in two days. Mr. Powers said that the City could not offer a flat guarantee. The City would be reasonable in the application of the standard. Mr. Powers suggested that the permit system is perhaps more problematic than the Planning Commission's concern about how we control the number of the signs in the community. Mr. Powers said that rather than using the permit process, the educational process could be used as well as the enforcement process. Mr. Powers reminded the Commission that the City's enforcement process is by complaint only.

Ms. Johnson-Pfeiffer said that her concern about permitting was that there will be people that don't get the permit and are out of compliance and the City will have to enforce the non-compliance of getting a permit. It doesn't solve the City's enforcement problem so what will happen is the people that follow the rules will get permits and the people don't play by the rules won't get the permit and the City will have to enforce non-permitted signs. She didn't think that adding the permitting layer would address the bigger concerns because it still comes down to enforcement. If that is where the breakdown is we are just adding another layer.

Ms. Jensen said that she liked the education side of the permit process.

Ms. Jensen commented that she didn't like the last sentence of (3)(b)(B) on page 35 which states: "Prior to placement of temporary signs in the public right-of-way, permission of the adjacent and nearest property owner must first be obtained."

Ms. Johnson-Pfeiffer said she liked the requirement because the sign in front of a business implies endorsement of what the sign says which could be and endorsement of a political candidate or a type of speech that they may or may not be comfortable with. Business should have some control of how their business is politicized.

Ms. Jensen asked about the area on SR20 and asked if someone wanted to put a sign there would they have to get permission from all the individual rental units adjacent to the area. Mr. Spoo noted that the highway right-of-way falls under the Washington State Department of Transportation and they may have rules against political signs within the State right-of-way.

Mr. Wasinger asked if business owners have the right to determine what goes into the public easement in front of their properties. Mr. Spoo said the reason that statement was put into the code was partly about the issue that Ms. Johnson-Pfeiffer raised. Mr. Spoo indicated that the way right-of-way is defined is that it is an easement for public travel so the underlying land is still owned by an adjacent property owner on title so you would still need permission from the property owner. Mr. Powers added that there was still the basic prohibition on off-premise commercial signage so as an example, Safeway could not put a temporary sign in the grass strip in front of the Seven Eleven because that would be considered an off-premise commercial sign.

Mr. Oliver asked if it would be improper to get input from some of our political figures i.e. Mayor and City Council. Mr. Spoo said that they would automatically have input as part of the approval process and they will want to know what the general public and business owners think.

Mr. Powers added that if Planning Commission wanted to talk to past candidate for elected office that would be good to find out what they struggle with when it comes to signage. That input could only help to balance the issues. Mr. Spoo suggested input be put in writing in a letter addressed to the Planning Commission.

Ms. Johnson-Pfeiffer suggested that the two day time limit on removing community event and fundraiser signs is too short. It usually takes a week because volunteers are used to remove the signs. She also thought that seven days for political sign removal was too short given the size of some of the districts. She suggested two weeks. Mr. Spoo said that was the typical range.

Ms. Jensen commented that special events need to have more than two signs. Cost of producing the signs needs to be a consideration as well. For the community pig roast they usually just attach a paper over real estate signs. Mr. Powers said that the last two comments demonstrate exactly what the struggle is in crafting the temporary sign code. There were suggestions that we need to have more signage for civic events and that the standards should not apply to civic events and that is our struggle because we can't treat a non-profit activity substantially different than we treat for-profit groups and we can't treat political speech and commercial speech substantially different either. If the Commission has concerns about the number of signs that a permanent business has you are going to struggle by say one sign for that business and seven signs for the great non-profit that we have. That is not to say that they have to be identical because you may be able to establish some rational reasons as to how they are different but that is the challenge we are going to have.

Mr. Oliver asked about video signage not being allowed in any zoning district and asked if that applied to inside the window or just outside. Mr. Spoo said that language was focused on permanent signage and it is not in the context of temporary signage. Mr. Powers added that the reason that you see the definition of "video" and "video board" is that they work with other definitions specifically electronic message center signs. A few years ago the community went through a process to decide if they wanted to allow the electronic message center/reader board signs. As part of that review process it was determined that the community did not want to see the flashing video signs like the signs you see around Fife on I-5 and like the Angel of the Winds Casino sign on I-5.

Ms. Johnson-Pfeiffer went back to the discussion about community events. She felt that community events were different. It isn't commercial speech or political speech and falls into a unique niche. These events are for community branding and identity and to create that sense of community and it is important to let the community know that these events are going on. Signage may be expensive in the initial creation of them but they can be re-used and she felt that the signage was particularly limited for community events. She asked staff for more research on how other communities handle signage for community events.

Mr. Fakkema asked noted a correction that should be made on page 34 number (3)(a) (ii) through (vii) should say "shall not".

Mr. Fakkema suggested saying that if a 2-day approval is not given it is assumed to be approved. Mr. Spoo said that was not something the City should do and the challenge is that if an applicant does not submit all the information you can't approve the permit in 2 days.

Ms. Johnson-Pfeiffer indicated that she was comfortable with the temporary political signage language.

Mr. Wallin asked if there should be language included about how many signs are allowed and that the City regulates the number allowed in parks as well as the City's solid waste collection vehicle. Mr. Powers acknowledged that more work is necessary and that internal legal review still being done. Mr. Powers added that staff is proposing to adopt the interim ordinance while also continuing work on the draft code with the Planning Commission. Staff will return to the Planning Commission with the interim code in May.

Mr. Spoo outlined the next steps as follows:

- March – Draft code/changes?/recommendation
- April – recommendation to City Council
- May-June – Council Discussion/Adoption

Planning Commission had no further questions or comments.

**ADJOURN: 8:50 p.m.**