



PLANNING COMMISSION

AGENDA

January 22, 2013

CITY OF OAK HARBOR
PLANNING COMMISSION
REGULAR MEETING
CITY HALL

AGENDA
January 22, 2013
7:30 P.M.

ROLL CALL: FAKKEMA _____ WASINGER _____
 JENSEN _____ WALLIN _____
 FIKSE _____ FREEMAN _____
 SCHLECHT _____

Page 4

1. **Approval of Minutes – December 11, 2012**
2. **Public Comment** – Planning Commission will accept public comment for items not otherwise on the agenda for the first 15 minutes of the Planning Commission meeting.

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3. **2013 COMPREHENSIVE PLAN AMENDMENT DOCKET – Public Hearing**
The Planning Commission will review and discuss the 2013 Comprehensive Plan Amendments Docket. The Comprehensive Plan is a document that establishes the community vision for Oak Harbor. At the conclusion of the public hearing the Planning Commission will forward a recommendation to the City Council.

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4. **2012 COMPREHENSIVE PLAN AMENDMENT – Scenic Views – Public Meeting**
The Planning Commission will continue the discussion of the Scenic View Study from its last meeting. The scenic views were rated at the last meeting and the Planning Commission is expected to discuss them further and select views for further analysis.

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5. **ELECTRONIC MESSAGE CENTER SIGNS CODE UPDATE – Public Meeting**
Staff will facilitate continued discussion with the Planning Commission regarding the regulations for electronic message center signs contained in OHMC 19.36.

MINUTES

December 11, 2012

**PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
December 11, 2012**

ROLL CALL: Present: Keith Fakkema, Greg Wasinger, Jeff Wallin, Kristi Jensen Jill Johnson-Pfeiffer and David Fikse.
Absent: Gerry Oliver.
Staff Present: Development Services Director, Steve Powers and Senior Planner, Cac Kamak.

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

MINUTES: MS. JENSEN MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO APPROVE THE NOVEMBER 27, 2012 MINUTES AS PRESENTED.

PUBLIC COMMENT:

Wendy Campbell deWinter (735 Bay Front Lane) read written comments (PC Attachment 1) regarding global warming.

2012 COMPREHENSIVE PLAN AMENDMENTS – SCENIC VIEWS – Public Meeting

Mr. Kamak recapped the Planning Commission’s November meeting in which the Planning Commission reviewed criteria for evaluating scenic views within Oak Harbor. Since not all scenic views have the same public interest and value, the Planning Commission also weighted the criteria to help narrow down the selection and focus on the views that preserves the community’s interests. The criteria and the ratings that will be used to initially evaluate the scenic views are provided in the below. Mr. Kamak noted that he assigned points to each score.

Mr. Kamak also provided a map showing the scenic corridors. (PC Attachment 2). Mrs. Johnson-Pfeiffer provided additional scenic view information (PC Attachment 3).

Proposed Criteria	Rating Score H = High L = Low M = Medium D = Deduct	Score
View from public property	H	100
View from streets		
SR 20	M	50
Arterial	M	50
Collector	L	25
Local	L	25
View from a pedestrian/pedestrian trail	H	100
View of a specific landmark	H	100
The need to buy property	D1	-100
The need for special zoning regulations	D	-50
Additional Criteria		
Entryway views	H	100
Waterfront connectivity	H	100
		Max - 550

Mr. Kamak displayed each view and scoring sheet. The Planning Commission was asked to score each view.

Planning Commission discussed what “waterfront connectivity” means. Ms. Johnson-Pfeiffer said she had visual connectivity in mind when she suggested it. There was discussion about reserving scenic views downtown while encouraging high intensity uses as described for the downtown in the Comprehensive Plan. There was some discussion about a separate plan for the downtown that would have to include property owners, adopting a plan and putting regulations in place. Planning Commission members expressed a desire to keep a couple of waterfront views while encouraging redevelopment.

The results of the Planning Commission’s first round of scoring are shown below.

	Views	Rating Score	Qualified (Y/N)
1	Northbound SR 20 – Scenic Heights to Erie	350	
2	Northbound SR 20 – Swantown to Scenic Heights	300	
3	Scenic Heights Trailhead	325	
4	SW Freund Street	275	
5	Waterloo Rd & Scenic Heights	175	
6	Swantown – Kimball to SR 20	200	
7	Swantown & Fireside Lane	125	
8	Barrington Drive and Fleet Street int	175	
9	Fleet Street	225	
10	Barrington Drive and Fairhaven int	175	
11	Waterfront Trail – Windjammer Park	400	
12	Waterfront Trail – Flintstone Park	400	
13	Bayshore Drive – Dock to Midway	450	
14	Pioneer Way – Midway to Regatta	450	
15	Pioneer Way – Ireland to Midway	300	
16	Pioneer Way – SR 20 to City Beach	200	
17	Jensen Street	175	
18	Midway Blvd – SE 8 th to Midway	250	
19	Regatta Drive – SE 8 th to Pioneer Way	450	
20	Skagit Valley College parking lot	150	
21	Crosby Ave by Cathlamet Drive	175	
22	Crosby Ave by Prow Street	75	
23	Airline Way	175	
24	SW 6 th and Dyer	175	
25	Southbound SR 20 and NE 16 th Ave	350	
26	Dock Street – Barrington to Bayshore	375	
27	Ft Nugent Avenue – Quince St to Neinhuis St	350	
28	City Beach St		

Mr. Kamak said he would send tonight’s Power Point presentation to the Planning Commission and asked them to fill out the “Qualified (Y/N) column based on their own evaluation. He will then compile that information for discussion at the January meeting.

Mr. Fakkema asked for public comment.

Wendy Campbell deWinter commented that composition of the aesthetic views are unique in Oak Harbor and is very important to preserve.

2013 COMPREHENSIVE PLAN AMENDMENT DOCKET – Public Meeting

Mr. Kamak reported that the January Planning Commission meeting regarding the preliminary docket for 2013 will be advertised on January 5, 2013. The major portion of the work proposed for 2013 will be focused around the 2016 Comprehensive Plan update. No action is requested at this time. The Planning Commission will be required to make a recommendation on the preliminary docket at the January 22nd, 2013 meeting.

Mr. Fakkema asked for public comment seeing none the meeting was concluded.

Ms. Johnson-Pfeiffer noted that this was her last meeting and expressed her appreciation for the Planning Commission and staff.

ADJOURN: 9:20 p.m.

DRAFT



Wendy Campbell deWinter <campbelldewinter@gmail.com>

FW: OH Planning material

1 message

Sun, Dec 9, 2012

Dear Planning Commission Members:

My name is Wendy Campbell deWinter and I live in the Oak Harbor area. My physical address is 735 Bay Front Lane.

2012 has ^{been} an extraordinary year following an extraordinary decade. According to The American Meteorological Society:

"There is unequivocal evidence that Earth's lower atmosphere, ocean, and land surface are warming; sea level is rising; and snow cover, mountain glaciers, and Arctic sea ice are shrinking. The dominant cause of the warming since the 1950s is human activities." 8/20/2012

- **Temperatures are rising. The US had 4400 record setting high temperatures set in 2012. The ratio between record highs and lows are shifting dramatically from 1:1 prior to 2000 to 2:1 in the previous decade to 10:1 the last 2 years. Leading to the massive forest fires of the last 2 years.**

- **Weather patterns are changing. The drought and heat wave in the midwest have had devastating economic impacts that are not over.**

- **Storm intensity is increasing with documented consequences for coastal erosion and flooding for our region. We have seen the number of multi-billion dollar weather related events escalate from a background of 2-3/year the previous century to 9 in 2007 and 12 in 2011. Super storm Sandy brings us a \$75 billion dollar price tag.**

- **Ocean acidification has increased 26% and will increase to 150% by 2100 with disturbing consequences for marine life and those who depend on it.**

- **Sea levels are rising, and as the ocean warms and expands, they will continue to rise through this century. Rising sea levels amplify impacts of storms by a factor of 10. This means a one foot rise in sea level converts a 100 year event - i.e., an event expected to occur once a century - to a 10 year event. We currently have a 6-7 inch rise in sea level and conservatively expect 3-4 more feet by 2100.**

I'm sure you'll agree that Oak Harbor would be wise to plan, as many other municipalities from Olympia to Venice Italy are, for these impacts. The DOE, FEMA, NOAA and others have tools to assist you including those related exclusively to sea level rise and storm surge:

I especially want to make you aware of a recent WDOE publication titled: "Preparing for a Changing Climate" which it prepared in collaboration with other state agencies including the departments of Agriculture, Transportation, Health, Commerce, Natural Resources and Fish and Wildlife and UW Climate Impact group, in the effort to "protect our communities, natural resources and economy from the impacts of climate change and build our capacity to adapt to expected climate changes."

I hope you will look at this resource, and others that I have listed with my public comment(see addenda below).

Thank you for your attention to this matter.

Wendy Campbell deWinter

ADDENDA:

Sea Level Rise Planning Tools

Tillmann, Patricia and Dan Siemann. Climate Change Effects and Adaptation Approaches in Marine and Coastal Ecosystems of the North Pacific Landscape Conservation Cooperative Region: A Compilation of Scientific Literature. Phase I Draft Final Report. National Wildlife Federation - Pacific Region, Seattle, WA. August 2011

- FEMA: Washington Coastal Studies and Products. November 1 2012:
http://www.ecy.wa.gov/climatechange/docs/event_20121101_stone.pdf

- NOAA Sea Level Rise and Coastal Flooding Impact Viewer:
<http://www.csc.noaa.gov/digitalcoast/tools/slviewer>

- The Nature Conservancy's Coastal Resilience Tool: <http://coastalresilience.org/>

Entire American Meteorological Society statement:

"There is unequivocal evidence that Earth's lower atmosphere, ocean, and land surface are warming; sea level is rising; and snow cover, mountain glaciers, and Arctic sea ice are shrinking. The dominant cause of the warming since the 1950s is human activities. This scientific finding is based on a large and persuasive body of research. The observed warming will be irreversible for many years into the future, and even larger temperature increases will occur as greenhouse gases continue to accumulate in the atmosphere. Avoiding this future warming will require a large and rapid reduction in global greenhouse gas emissions. The ongoing warming will increase risks and stresses to human societies, economies, ecosystems, and wildlife through the 21st century and beyond, making it imperative that society respond to a changing climate." 8/20/2012

Melting Arctic BBC: <http://www.bbc.co.uk/news/science-environment-19496674>

Greenland's Meltdown: <http://www.rollingstone.com/politics/news/the-arctic-ice-crisis-20120816>

[1] DOE Report: Blue Ribbon Panel on OA

<http://www.ecy.wa.gov/water/marine/oceanacidification.html>

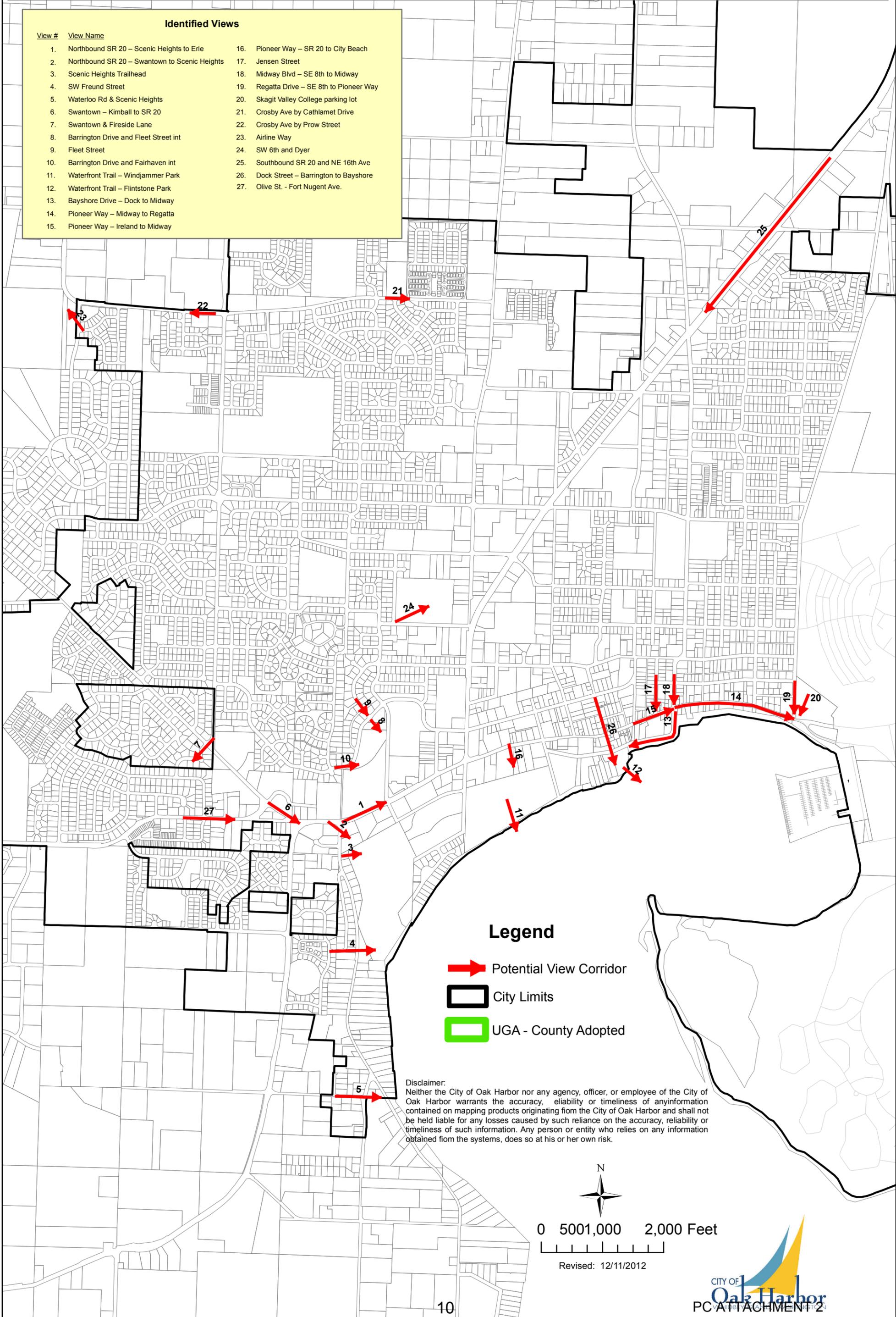
[2] The Trouble with Pteropods:

http://seattletimes.com/html/localnews/2019765681_pteropods26m.html

POTENTIAL VIEW CORRIDOR MAP - DRAFT

Identified Views

View #	View Name
1.	Northbound SR 20 – Scenic Heights to Erie
2.	Northbound SR 20 – Swantown to Scenic Heights
3.	Scenic Heights Trailhead
4.	SW Freund Street
5.	Waterloo Rd & Scenic Heights
6.	Swantown – Kimball to SR 20
7.	Swantown & Fireside Lane
8.	Barrington Drive and Fleet Street int
9.	Fleet Street
10.	Barrington Drive and Fairhaven int
11.	Waterfront Trail – Windjammer Park
12.	Waterfront Trail – Flintstone Park
13.	Bayshore Drive – Dock to Midway
14.	Pioneer Way – Midway to Regatta
15.	Pioneer Way – Ireland to Midway
16.	Pioneer Way – SR 20 to City Beach
17.	Jensen Street
18.	Midway Blvd – SE 8th to Midway
19.	Regatta Drive – SE 8th to Pioneer Way
20.	Skagit Valley College parking lot
21.	Crosby Ave by Cathlamet Drive
22.	Crosby Ave by Prow Street
23.	Airline Way
24.	SW 6th and Dyer
25.	Southbound SR 20 and NE 16th Ave
26.	Dock Street – Barrington to Bayshore
27.	Olive St. - Fort Nugent Ave.



Legend

-  Potential View Corridor
-  City Limits
-  UGA - County Adopted

Disclaimer:
Neither the City of Oak Harbor nor any agency, officer, or employee of the City of Oak Harbor warrants the accuracy, reliability or timeliness of any information contained on mapping products originating from the City of Oak Harbor and shall not be held liable for any losses caused by such reliance on the accuracy, reliability or timeliness of such information. Any person or entity who relies on any information obtained from the systems, does so at his or her own risk.



0 500 1,000 2,000 Feet

Revised: 12/11/2012



Bayshore approaching SR 20. Nice connectivity to the waterfront.



SR20/Swantown, top of hill...nice view arriving and leaving the town. There are a variety of angles of this view...most would allow development if it was the right scale.



SR20 Coming into town from S. Whidbey. View is on the right as you approach the intersection.



Peek-a-boo water/marina view as you approach town from the south. The issue here I think is the trees.



This view is already lost...unless someone wants to buy that parking garage and put on a roof garden???



View from Scenic Heights trailhead.



Here we have water on the right, but you can't tell because of trees and development. The visual of the town is highly developed and commercial.



TERRIBLE photo. But this area is SIGNIFICANT because you can see the park as your approach the town from the S. It's the first glimpse of the Windmill and the park as you approach the City. This view is just past Whidbey Island Bank. The corridor to consider is one for a car towards the Windmill.





This is the intersection of SR20 and Pioneer. The view straight is fine, but anything that could happen during redevelopment that would open up that view access to the park on the left would help draw people towards the park.



Bayshore and 20....the view is from the street...but my photographer wouldn't run out there! It's that straight visual to the water/park to watch out for.



City Beach Road. Good visual connectivity. The view straight to the water matters more than the view side-to-side.



Dock Street

Good water connectivity. A view to think about if the inter-mobile facility design comes back.



Hathaway Street from Barrington....I have a question about how high the building below could go.



Jenson Street...with an undeveloped lot at the bottom of the hill. How much of this view would be blocked @ 35 feet?



Midway to Pioneer.....



Midway to Pioneer...with an open lot on the left that could create view loss.



Regatta to Pioneer



Barrington view of Windmill



Pioneer Way views of Windmill

2013 Comprehensive Plan

Amendment

Docket

Public Hearing

**City of Oak Harbor
Planning Commission Report**

Date: January 22, 2013
Subject: 2013 Comprehensive Plan
Amendments – Preliminary
Docket

FROM: Cac Kamak, AICP
Senior Planner

PURPOSE

This report presents the preliminary docket for the 2013 Comprehensive Plan amendments. The preliminary docket is intended to review ideas generated by the community, Planning Commission, City Council and the Director of Development Services on the amendments to pursue in 2013 for the Comprehensive Plan. The Planning Commission is required by OHMC 18.15.040(7) to make a recommendation to the City Council by January 31 of each year and the City Council is required by OHMC 18.15.040(8) to finalize the docket before the end of March.

AUTHORITY

The City is required by the Growth Management Act (GMA) to adopt a comprehensive plan and to review and revise it pursuant to RCW 36.70A.130. Oak Harbor Municipal Code Chapter 18.15 prescribes the process for considering Comprehensive Plan amendments. The code requires the Planning Commission to hold a public hearing, review the preliminary docket and make a recommendation to the City Council.

BACKGROUND

The process to amend the Comprehensive Plan every year begins in October with a notice to solicit applications for amendments. The City usually receives applications from property owners for land use changes, however, no applications were received this year. The Planning Commission deliberates on the amendments in October and November each year. Since the study on scenic views is still underway along with preparations for the 2016 Comprehensive Plan Update, the Planning Commission did not add any items to the 2013 preliminary docket. The Development Services Director, as permitted by OHMC 18.15.030(d), has added a land use change request for city-owned property located at 1000 SE City Beach Street (old city shop site) to the preliminary docket.

The preliminary docket was advertised in accordance with OHMC 18.15.040(6) prior to the Planning Commission's public hearing on January 22, 2013.

DISCUSSION

The proposed preliminary docket for the 2013 Comprehensive Plan amendments includes a land use change (1000 SE City Beach St.), update to the Shoreline Master Program, 2016 Comprehensive Plan major update and the continued study of the 2012 Scenic View study.

Land Use Changes (Sponsored Amendment)

There were no applications from the general public on land use changes. However, the Development Services Director, as permitted by OHMC 18.15.030(d), has added a land use change request for city-owned property located at 1000 SE City Beach Street (old

city shop site) to the preliminary docket. The City wishes to explore future uses for this property. As those uses are not likely to be residential (the existing land use designation is “High Density Residential”) a land use map amendment will be necessary.

Shoreline Master Program (Mandated Amendment)

The City Council adopted the Shoreline Master Program on November 20, 2012 as mandated by RCW 90.58.080. However, the Shoreline Master Program will become official after the Washington Department of Ecology approves the plan. That approval is expected to occur during 2013. The Shoreline Master Program can then be incorporated into the Comprehensive Plan by reference. The city does not anticipate any major work on this item in 2013 and incorporation into the Comprehensive Plan is a formality.

Scenic View Study (Discretionary Amendment)

This item was on the 2012 docket and is continued in to the 2013 amendment process. In 2012, the City and the Planning Commission gathered public input on this topic and identified approximately 27 views of interest. The Planning Commission also discussed methodologies to review the identified views and established criteria to evaluate them. The Planning Commission is currently narrowing down the views for further analysis.

2016 Comprehensive Plan Update (Mandated Amendment)

This item is a requirement for local governments such as Oak Harbor that are fully planning under the Growth Management Act. The original deadline for this requirement in accordance to RCW 36.70A.130 was 2012, but legislation was passed to extend the deadline to 2016. This item will revisit all the elements of the Comprehensive Plan such as Land Use, Housing, Capital Facilities, Utilities, Transportation, Economic Development, Parks and Recreation, Public Facilities etc. This item will span multiple years leading up to adoption in 2016. The scope of work for this item in 2013 will be to review the current policies and identify the scope and process for the update.

OHMC 18.15.070 establishes the criteria to review the Comprehensive Plan Amendment Docket. The table below provides the applicability of the criteria to the proposed preliminary docket.

Criteria provided in OHMC 18.15.070 (2)	2016 Update	Shoreline Master Program	Scenic Views Study	Land Use Changes (1000 SE City Beach Street)
(a) The proposed amendments are consistent with Growth Management Act (GMA) and the Countywide Planning Policies (CPP).	✓Yes Mandated (RCW 36.70A.130)	✓Yes Mandated (RCW 90.58.080)	The study and the process is consistent with GMA and CPP	Considering the land use prior to zoning changes is consistent with GMA and CPP
(b) The proposal does not appear to contradict other elements, goals and policies within the Comprehensive Plan.	None identified	None identified	None identified at this time, however there is a potential	None identified at this time

			that eventually there may be some opposing policies to discuss	
(c) The proposal will implement or further existing goals and policies in the Comprehensive Plan.	✓Yes Updates will keep the Comprehensive Plan in compliance with GMA	✓Yes Updates will keep the Comprehensive Plan in compliance with GMA	The study will strengthen and implement some of the existing policies in Urban Design and may challenge some policies in Economic Development	Considering this land use change will be done within the context of existing goals and policies.
(d) The proposal would correct an inconsistency within or make a clarification to a provision of the Comprehensive Plan.	NA	NA	NA	NA
(e) The proposed amendments have been clearly defined to determine a fairly accurate scope of work.	✓Yes since it is mandated. The scope of work will be determined in 2013	✓Yes	✓Yes	✓Yes
(f) The proposed amendments responds to an expressed desire by the community.	NA	NA	✓Yes	This is a necessary action to consider
(g) The public interest would be best served by considering the proposal in the current year.	✓Yes	✓Yes	✓Yes	✓Yes

RECOMMENDATIONS

1. Conduct the public hearing.
2. Recommend that the City Council approve the proposed Docket for the 2013 Comprehensive Plan Amendments.

Attachments:

Attachment 1 - Proposed Docket (City Council Resolution)

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE DOCKET FOR THE 2013 COMPREHENSIVE PLAN AMENDMENTS

WHEREAS, the City of Oak Harbor first adopted a Comprehensive Plan consistent with the requirements of the Washington State Growth Management Act (Chapter 36.70A RCW) in 1995 by Ordinance 1027, and adopted amendments to the plan in 1997 by Ordinance 1100, in 1998 by Ordinance 1161, in 2000 by Ordinance 1215, in 2001 by Ordinance 1287, in 2003 by Ordinance 1340, in 2004 by Ordinance 1396, in 2005 by Ordinance 1439 and in 2007 by Ordinance 1488 and in 2008 by Ordinance 1542; and and in 2009 by Ordinance 1564; and 2010 by Ordinance 1594; and 2012 by Ordinance 1647; and

WHEREAS, THE CITY OF OAK HARBOR, in the public interest, may adopt amendments or revisions to the Comprehensive Plan no more frequently than once per year in accordance with the State of Washington Growth Management Act RCW 36.70A.130(2); and

WHEREAS, the City of Oak Harbor in accordance with RCW 36.70A.130 has adopted Ordinance 1565 that established a schedule and process to review and amend the Comprehensive Plan; and

WHEREAS, the proposals in the preliminary docket, as presented below, were reviewed against the criteria established in OHMC 18.15.070(2) and determined to be generally consistent; and

WHEREAS, the Planning Commission conducted a public hearing on the preliminary docket on January 22, 2013; and

WHEREAS, the City Council conducted a public hearing on the docket on _____, 2013; and

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor that the docket contained herein shall be established as the 2013 Comprehensive Plan Docket:

2013 Comprehensive Plan Amendment Docket

Proposed Amendment	Type of Amendment	Priority as per OHMC 18.15.050
2016 Comprehensive Plan Update	Mandated RCW 36.70A.130	Priority A
Shoreline Master Program	Mandated RCW 36.70A.130	Priority A
Land Use Changes – 1000 Se City Beach Street	Sponsored	Priority B
Study on Scenic Views	Discretionary	Priority C

PASSED and approved by the City Council this _____, 2013.

THE CITY OF OAK HARBOR

Scott Dudley
Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

2012 Comprehensive Plan

Amendments

Scenic Views

Public Meeting

CITY OF OAK HARBOR

TO: PLANNING COMMISSION
FROM: CAC KAMAK, SENIOR PLANNER
SUBJECT: 2012 COMPREHENSIVE PLAN AMENDMENTS – SCENIC VIEW CORRIDORS
DATE: 1/17/2013
CC: STEVE POWERS, DEVELOPMENT SERVICES DIRECTOR

Background: The City Council included a study on scenic views in the 2012 Comprehensive Plan Amendment Docket with the intention of eventually preserving some of the scenic views that are present today for future generations. The Planning Commission recommended this study since they recognized that some views that the community had become accustomed to in the past were blocked by recent development and they wished to proactively study the remaining views to determine if some of them could be preserved.

As with all Comprehensive Plan amendments, the project was initiated with a public input process. A request was sent to every household in Oak Harbor soliciting input on this topic. Residents were asked to provide the city with images of scenic views that were important to them. After the public input process, the Planning Commission discussed methodologies and criteria to help identify views that have a larger public benefit. The Planning Commission discussed a set of criteria that would help evaluate the views and also discussed the importance of each criterion and weighted them based on that importance. A brief description of the criteria is provided below;

- Is the view from public property? – This places an importance of the view being a public asset and that regulations are in the public interest. These can be streets, parks, schools, trails etc.
- Is the view from a heavily travelled street? – This criterion places an importance on views that are accessible/viewable by a larger number of people, such as travelers on scenic byways such as SR20. The Planning Commission discussed the importance of this criteria based on the classification of the street (arterial, collector etc.) and the level of traffic on it. It was noted that views enjoyed by the driving population will need to be wide and sustained due to the speed at which they are moving. Also a view that is directly ahead and head-on to the lane of travel is different than a view that is to the side and parallel to the travel lane. A head-on view can be more sustained than a view that is parallel to the travel lane which can be intermittent and may be viewed across several properties.

- Is the view on a popular pedestrian route? –This provides importance to pedestrian views. Views experienced by pedestrians are different from views experienced while driving. Pedestrians have the opportunity to stop and enjoy a narrower view.
- Is the view of a specific landmark? – View of landmarks such as Mt. Rainier, Mt. Baker, Windjammer Windmill, Oak Harbor Bay etc. may be of higher importance than others that don't have a specific draw.
- Is there a need to buy property to protect a view? –. If the view is deemed significant enough, the public interest could be served by purchasing the private development rights. This criterion could be used to choose which views to protect through this method by establishing the value of a scenic view in terms of current dollars. The Planning Commission decided to assign negative points to views that will need either purchase or regulation of private property. During the evaluation process on December 11, 2013, the Planning Commission realized that many of the favored views today are across private property.
- Is there a need to impose special zoning regulations to maintain, protect or reveal a scenic view? – The use of this tool can in many ways be more challenging than buying a property to protect the views. However, if it can be done without creating a regulatory taking of the owner's development rights, it's a great mechanism to protect scenic views.

Based on the criteria discussed above, the following table was generated to evaluate the views:

Proposed Criteria	Rating Scale*	Score
View from public property	H	
View from streets		
SR 20	M	
Arterial	M	
Collector	L	
Local	L	
View from a pedestrian route	H	
View of a specific landmark	H	
The need to buy property	D1	
The need for special zoning regulations	D	
Entry way views	H	
Waterfront connectivity	H	
Total		

*Rating Scale: H= High (100 points), M=Medium (50 points), L=Low (25 points), D1=Deduct (-100 points) and D = Deduct (-50 points)

The list of views that were identified for evaluation is listed below. A map of the views is also attached for your reference.

	Views	Rating Score	Qualified (Y/N)
1	Northbound SR 20 – Scenic Heights to Erie		
2	Northbound SR 20 – Swantown to Scenic Heights		
3	Scenic Heights Trailhead		
4	SW Freund Street		
5	Waterloo Rd & Scenic Heights		
6	Swantown – Kimball to SR 20		
7	Swantown & Fireside Lane		
8	Barrington Drive and Fleet Street int		
9	Fleet Street		
10	Barrington Drive and Fairhaven int		
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12	Waterfront Trail – Flintstone Park		
13	Bayshore Drive – Dock to Midway		
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16	Pioneer Way – SR 20 to City Beach		
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20	Skagit Valley College parking lot		
21	Crosby Ave by Cathlamet Drive		
22	Crosby Ave by Prow Street		
23	Airline Way		
24	SW 6 th and Dyer		
25	Southbound SR 20 and NE 16 th Ave		
26	Dock Street – Barrington to Bayshore		
27	Eastbound Ft Nugent		

At the December 11, 2012 meeting, the Planning Commission discussed the above listed views and evaluated them. However, since the relative importance of various scenic views is a subjective topic, the Planning Commissioners differed in their opinions on which of them are important irrespective of the criteria based evaluation. Therefore, it was decided that the Planning Commissioners would provide individual input on the views.

As of the date of this memo, staff has received feedback from three Planning Commission members regarding the views. The information has been compiled and

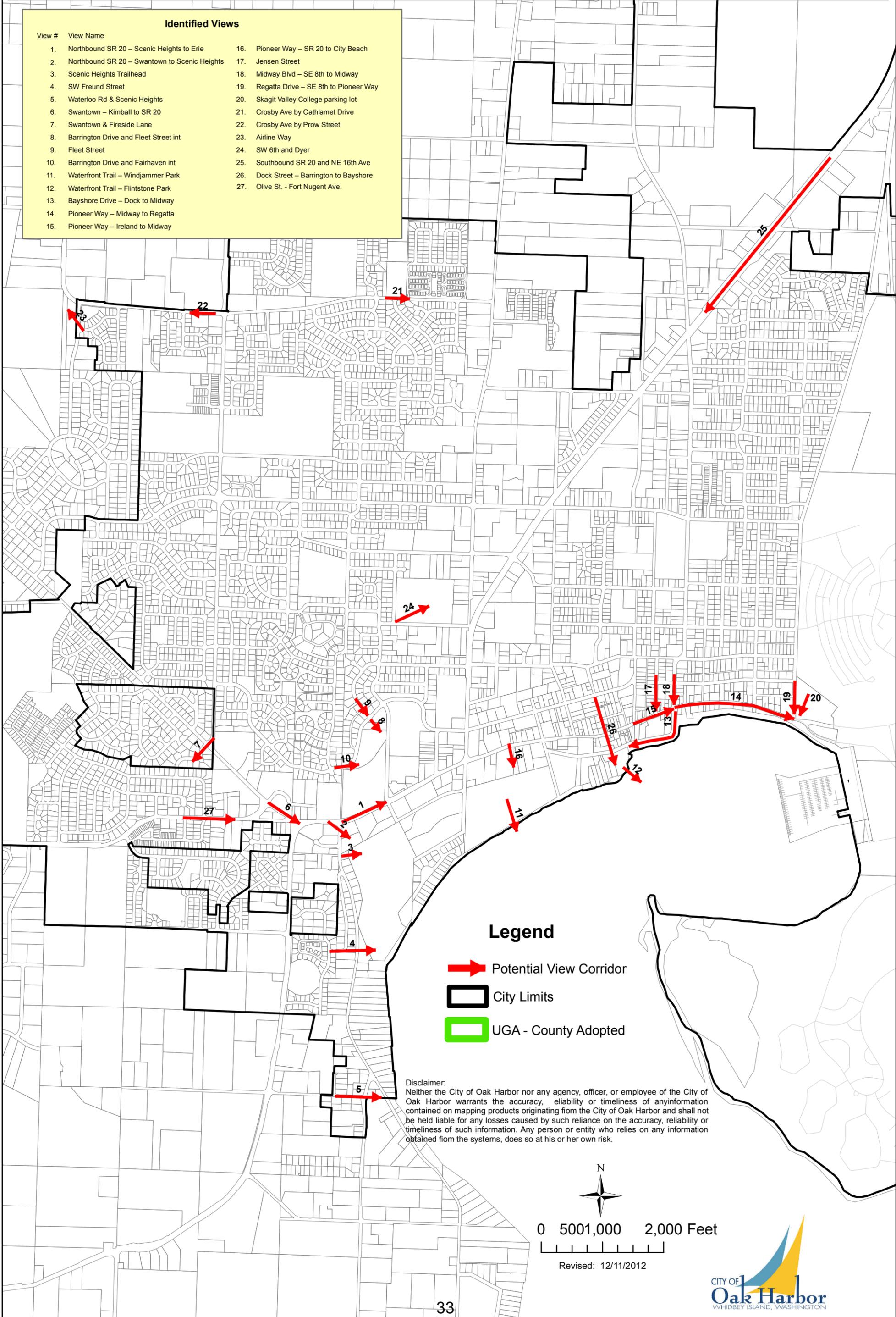
attached to this memo. Staff recommends that at the January 22, 2013 meeting, the Planning Commission use this information to narrow the list of views for further analysis¹. Staff will gladly incorporate any additional Planning Commission member feedback on this topic during the meeting.

¹ Further analysis will include a more detailed documentation of the scenic view, identifying potential benefits and challenges, contacting impacted property owners and further recommendations.

POTENTIAL VIEW CORRIDOR MAP - DRAFT

Identified Views

View #	View Name
1.	Northbound SR 20 – Scenic Heights to Erie
2.	Northbound SR 20 – Swantown to Scenic Heights
3.	Scenic Heights Trailhead
4.	SW Freund Street
5.	Waterloo Rd & Scenic Heights
6.	Swantown – Kimball to SR 20
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21.	Crosby Ave by Cathlamet Drive
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23.	Airline Way
24.	SW 6th and Dyer
25.	Southbound SR 20 and NE 16th Ave
26.	Dock Street – Barrington to Bayshore
27.	Olive St. - Fort Nugent Ave.



Legend

-  Potential View Corridor
-  City Limits
-  UGA - County Adopted

Disclaimer:
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0 500 1,000 2,000 Feet

Revised: 12/11/2012



Scenic Views Evaluation by Planning Commissioners

	Views	Fakkema		Wasinger		Walsh		Planning Commission Dec 11, 2012		Overall	
		Score	Qualification	Score	Qualification	Score	Qualification	Score	Qualification	Difference*	Qualification**
1	Northbound SR 20 – Scenic Heights to Erie	300	y	350	y	250	y	350		100	Y
2	Northbound SR 20 – Swantown to Scenic Heights	300	y	400	y	400	y	300		100	Y
3	Scenic Heights Trailhead	350	y	325	n	425	y	325		100	nc
4	SW Freund Street	250	y	275	n	275	n	275		25	nc
5	Waterloo Rd & Scenic Heights	200	n	175	n	175	n	175		25	N
6	Swantown – Kimball to SR 20	200	n	100	n	200	y	200		100	nc
7	Swantown & Fireside Lane	150	n	125	n	125	n	125		25	N
8	Barrington Drive and Fleet Street int	200	y	175	y	175	n	175		25	nc
9	Fleet Street	250	y	225	y	225	n	225		25	nc
10	Barrington Drive and Fairhaven int	200	n	175	n	175	n	175		25	N
11	Waterfront Trail – Windjammer Park	400	y	400	y	425	y	400		25	Y
12	Waterfront Trail – Flintstone Park	400	y	400	y	425	y	400		25	Y
13	Bayshore Drive – Dock to Midway	450	y	450	y	450	y	450		C	Y
14	Pioneer Way – Midway to Regatta	450	y	450	y	450	y	450		C	Y
15	Pioneer Way – Ireland to Midway	300	y	300	n	300	y	300		C	nc
16	Pioneer Way – SR 20 to City Beach	200	n	200	n	200	n	200		C	N
17	Jensen Street	150	n	175	n	75	n	175		100	N
18	Midway Blvd – SE 8 th to Midway	250	n	250	y	350	y	250		100	nc
19	Regatta Drive – SE 8 th to Pioneer Way	450	y	450	y	450	y	450		C	Y
20	Skagit Valley College parking lot	200	n	150	n	150	n	150		50	N
21	Crosby Ave by Cathlamet Drive	150	n	175	n	75	n	175		100	N
22	Crosby Ave by Prow Street	100	n	75	n	75	n	75		25	N
23	Airline Way	150	n	75	n	75	n	175		100	N
24	SW 6 th and Dyer	150	n	75	n	175	n	175		100	N
25	Southbound SR 20 and NE 16 th Ave	300	y	300	y	350	y	350		50	Y
26	Dock Street – Barrington to Bayshore	350	y	350	y	275	n	375		100	Y
27	Eastbound Ft Nugent	350	y	350	y	350	y	350		C	Y

* The difference between the highest and lowest scores assigned by the Commissioners

"c" no difference/equal scoring

** "Y" = Yes by consensus of Commissioners

"N" = No by consensus

"nc" = no consensus

Electronic Message Center Signs

Code Update

Public Meeting

Memo

To: Members of the Planning Commission
Cc: Steve Powers, Development Services Director
From: Ethan Spoo, Senior Planner
Date: 1/15/13
Re: Digital Signs Discussion

PURPOSE

The purpose of this memorandum is to discuss digital signs and the policy choices that those signs bring to the community. The memorandum is organized into the following sections:

- **Background** : discusses the new sign technology available, the most recent update to the code for sign technology, and how other cities treat digital signs.
- **Policy choices**: discusses the basic policy choices presented by digital signs for Oak Harbor.

BACKGROUND

DIGITAL SIGN TECHNOLOGY

Digital signs are one of the newer sign technologies. Electronic message centers are the prior generation of sign technology. Digital signs have capabilities, such as high quality video and animation that far exceed the capabilities of electronic message centers. As digital signs have been introduced, communities have raised questions about if and how these signs should be allowed. Like all other sign technologies, digital signs are designed to direct a passer-by's attention to a business.

Because of digital signs graphic, video, and animation capabilities, these signs offer business owners more choices for changing messages and images to attract attention to their business. At the same time, some research has found that these signs create potential safety issues. Signs with video or scrolling text attract twice as many glances as static signs and the drivers glance longer.¹

This research on driver safety has been vehemently contested by the billboard and sign industry and retailers; they have their own studies showing that such signs are safe and lead to increased sales for retailers.²

2008-2009 ELECTRONIC MESSAGE CENTER CODE UPDATE

The City last updated its code pertaining to sign technologies in 2008-2009 when it discussed electronic message centers. In response to requests from the business community, Planning Division staff drafted language allowing for electronic message centers within the C-3, C-4, and C-5 commercial zones. At the time, Planning Commission was concerned about the aesthetic impacts of these signs, the impact of allowing them

¹ For studies on driver safety and signs, see Beijer and Smiley, University of Toronto (2004), and the Texas Transportation Institute (2005).

² See Tantala, Albert Martin Sr., and Michael Walter Tantala, Tantala Associates. 2007. "A Study of the Relationship between Digital Billboards and Traffic Safety in Cuyahoga County, Ohio." July 7. See also Lee, Suzanne E. et al. 2007. "Driving Performance and Digital Billboards: Final Report." Virginia Tech Transportation Institute Center for Automotive Safety Research. March 22.

along the scenic byway, the size of the sign, animation, and video. The code was crafted to prohibit flashing, animation, and video.

EXISTING CODE

Oak Harbor's code does not address digital signs because of their relatively recent introduction. The code addresses electronic message center signs by placing restrictions on the signs characteristics such as size of the sign, the time of the message, the colors used in the sign, the ability to use animation and video, the brightness of the sign, and hours the sign may be turned on when adjacent to residential areas. As previously mentioned, flashing, animation, and video are prohibited on electronic message center signs and the images or text must remain for a minimum of two seconds.

HOW OTHER CITIES TREAT DIGITAL SIGNS

There are a variety of ways that cities treat digital signs ranging from prohibiting them outright to allowing them with few restrictions. Planning Division staff looked at the codes of some cities in Washington, including near to Oak Harbor to sample the ways in which these signs are treated with the following findings:

- **Federal Way** – Federal Way's code does not address digital signs specifically, but allows electronic message center signs for certain types of land uses and in certain zones. The code prohibits animated or moving signs and electronic message center signs near the freeway.
- **Everett** – Everett prohibits video boards, but allows electronic message center signs with no geographic limits. All messages or images must remain for a minimum of two seconds.
- **Burlington** – Burlington prohibits animated, moving, or flashing signs. Animation is defined as "a sign employing actual motion or the illusion of motion" and this prohibition applies to "electrically activated signs." Electronic message center signs are allowed, but only for multiple tenant complexes over 20 acres in size. Burlington requires that the sign be within 100 feet of the freeway. Messages must remain for at least two seconds. "Displays shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist, or otherwise portray graphics or animation as it moves onto, is displayed on, or leaves the signboard."
- **Anacortes** – Anacortes specifically allows digital message signs, including TV, computer and video screens, but requires that the image or message remain for 20 seconds and limits size of the sign to 24 square feet. Digital electronic signs are prohibited in the central business district.
- **Mt. Vernon** – Mt. Vernon's code does not reference digital or video signs specifically, but instead uses the term "electronically controlled." These signs are not allowed in residential districts, but are allowed in commercial, industrial, and public districts subject to certain restrictions such as hours of operation and location near arterial streets. Animation and video are not specifically prohibited.
- **Bellingham** – Bellingham regulates digital, video, and electronic signs by district. The signs are permitted in some districts and prohibited in others depending upon the character of the district.

LEGAL BOUNDARIES

The City has broad legal authority to regulate the time, place, and manner of digital signs. It can do anything from prohibit all digital signs to allow them with few restrictions.

POLICY QUESTIONS

Before staff can draft a code pertaining to digital signs, we need guidance from the Planning Commission. First and foremost, we must answer whether the City will prohibit or allow these signs. The signs may be an important new technology that retailers and businesses can use to draw customers to their establishments. On the other hand, as discussed above these signs raise some questions about safety and community character. If the City wants to allow these digital sign technologies, it can choose to place restrictions on the characteristics of these signs which address their impacts. Staff requests Planning Commission guidance on the following policy questions:

1. Size? Should there be limits on the size of these signs? The existing code restricts the size of electronic message center signs to 50% of the size of the commercial sign in which the message centers are incorporated. Overall sign size is required to be proportional to the size of the building façade.
2. Animation and video? Animation may be prohibited or allowed. Animation is usually defined as movement or the appearance of movement. Many jurisdictions require that images or text remain on screen for a minimum specified time. Generally, the less time the image is on the screen, the more distracting it could be for drivers. For electronic message centers, the code uses two seconds as the minimum display time for messages. Are there some aspects of animation or video acceptable and others that are unacceptable?
3. Site Location? Should digital signs be located on freestanding sign structures or only on the building face or both? Generally speaking, the closer the sign is to the road, the more visible it is and the greater potential for driver distraction.
4. Location within City? Many cities restrict digital signs to commercial districts and discourage their placement near highways or freeways. In Oak Harbor's case, the primary commercial areas in town are along Highway 20, Midway Boulevard and Pioneer Way. Highway 20 has been designated as a state "scenic byway." Island County has adopted the "Whidbey Scenic Isle Way Corridor Management Plan" to preserve the scenic qualities of the scenic byway. If digital signs are allowed on Highway 20, it is possible that Island County and the Washington Department of Transportation (WSDOT) may have concerns about the aesthetic impacts of these signs. In the worst-case scenario, the state might revoke the scenic byway designation in Oak Harbor, which could have adverse economic impacts if it discourages tourists and motorists from visiting the City. Should there be different regulations for different commercial areas or zoning districts?
5. Hours of operation? Should these signs be turned off during nighttime hours? What about if adjacent to or visible from residential areas?
6. Brightness? Is it necessary to regulate this type of sign different from other types of illuminated signs? Should there be limits on the sign's brightness during daytime and nighttime hours?

ATTACHMENTS

1. "Digital Signs: Context Matters", Zoning Practice, April 2008, Issue Number 4, American Planning Association.
2. Existing code

ZONINGPRACTICE

April 2008

AMERICAN PLANNING ASSOCIATION



➔ ISSUE NUMBER FOUR

PRACTICE SMART SIGN CODES

**Digital
Signs:
Context Matters**

A large billboard is mounted on a building facade. The billboard has a dark background with a grid of small, light-colored dots. The text 'Digital Signs: Context Matters' is written in a bold, white, sans-serif font. The billboard is held up by several metal brackets. In the foreground, a large, dark, stylized number '4' is partially visible, overlapping the bottom right corner of the billboard. In the background, a tall, modern skyscraper with a grid of windows is visible against a light sky.

Looking Ahead: Regulating Digital Signs and Billboards

By Marya Morris, AICP

Cities and counties have always been challenged to keep their sign ordinances updated to address the latest in sign types and technologies.

Each new sign type that has come into use—for example, backlit awnings and electronic message centers—has prompted cities to amend their regulations in response to or in anticipation of an application to install such a sign.

The advent in the last several years of signs using digital video displays represents the latest, and perhaps the most compelling, challenge to cities trying to keep pace with signage technology. More so than any other type of sign technology that has come into use in the last 40 to 50 years, digital video displays on both off-premise (i.e., billboards) and on-premise signs raise very significant traffic safety considerations.

This issue of *Zoning Practice* covers current trends in the use of digital technology on off-premise billboards and on-premise signs. It recaps the latest research on the effects of

this type of changeable signage on traffic safety. It also discusses the use of digital video sign technology as a component of on-premise signs, including a list of ordinance provisions that municipalities should consider if they are going to permit this type of sign to be used. I use the phrase digital display or video display, but these devices are also referred to as LEDs or, collectively, as “dynamic signs.”

BRIGHT BILLBOARDS

While digital technology is growing in use for on-premise signs, it is the proliferation of digital billboards that has triggered cities and counties to revise their sign ordinances to address this new type of display. Of the approximately half-million billboards currently lining U.S. roadways, only about 500 of them are digital. However, the industry's trade

group, the Outdoor Advertising Association of America, expects that number to grow by several hundred each year in the coming years. In 2008, digital billboards represent for the sign industry what the Comstock Lode must have represented for silver miners in 1858—seemingly limitless riches. The technology allows companies to rent a single billboard—or pole—to multiple advertisers. A billboard company in San Antonio, for example, estimated that annual revenue from one billboard that had been converted from a static image to a changeable digital image would increase tenfold, from \$300,000 to \$3 million just one year after it went digital.

It is very difficult for cities and counties to get billboards removed once they are in place. Billboard companies have made a concerted effort to get state legislation passed that limits or precludes the ability of local

⊕ A typology of moving-image signs. The variable message sign at the right uses a motor to switch among three different static images. Next, the electronic messageboard at Wrigley Field in Chicago displays scrolling text and simple images. The on-premise digital sign, pictured third from left, looks like a giant television screen, displaying a steady stream of video images. On the far right, this digital billboard cycles through a number of static video images at regularly timed intervals.



ASK THE AUTHOR JOIN US ONLINE!

Go online from May 12 to 23 to participate in our "Ask the Author" forum, an interactive feature of *Zoning Practice*. Marya Morris, *AICP*, will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The author will reply, and *Zoning Practice* will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of *Zoning Practice* at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA *Zoning Practice* web pages.

About the Author

Marya Morris is a senior associate at Duncan Associates, a planning consulting firm specializing in land development regulations and infrastructure finance. www.duncanassociates.com

governments to require removal of existing billboards through amortization. The only option left is paying cash compensation. The federal Highway Beautification Act, which was modified many years ago under industry pressure, also prohibits amortization and requires cash compensation for billboard removal.

With the amortization option unavailable, some cities and counties have struck deals with billboard companies requiring them to remove two boards for every new one they install. Other jurisdictions have established simple no-net-increase policies. Although many communities have had success with these approaches, in the

last few years the industry has devised a litigious tactic to secure new billboard permits. Billboard companies challenge the constitutionality of a sign provision, and when the ordinance is in legal limbo, they rush in to secure billboard permits.

The American Planning Association has joined Scenic America, the International Municipal Lawyers Association, and others in filing amicus curiae briefs in many of these cases to show the courts the industry's pattern of conduct and deliberate strategy to circumvent local sign codes. A review in January 2006 found 113 such "shakedown" sign cases filed in the federal

courts since 1997, and eight filed in state courts in the same time period. For more information visit the APA Amicus Curiae webpage at www.planning.org/amicusbriefs.

The emergence of the highly lucrative digital billboards has also, however, given local governments some leverage to at least reduce the total number of billboards. Many of the applications cities are seeing for the video billboards are requests by companies to replace the static type with the new video displays in key locations. The added revenue potential from a digital format has proved to be enough of an incentive to get companies to agree to remove multiple static billboards in exchange for permits to install video display in certain locations.

In June 2007, Minnetonka, Minnesota, in the Twin Cities area, reached a settlement with Clear Channel in which the company agreed to

The emergence of the highly lucrative digital billboards has given local governments some leverage to at least reduce the total number of billboards.



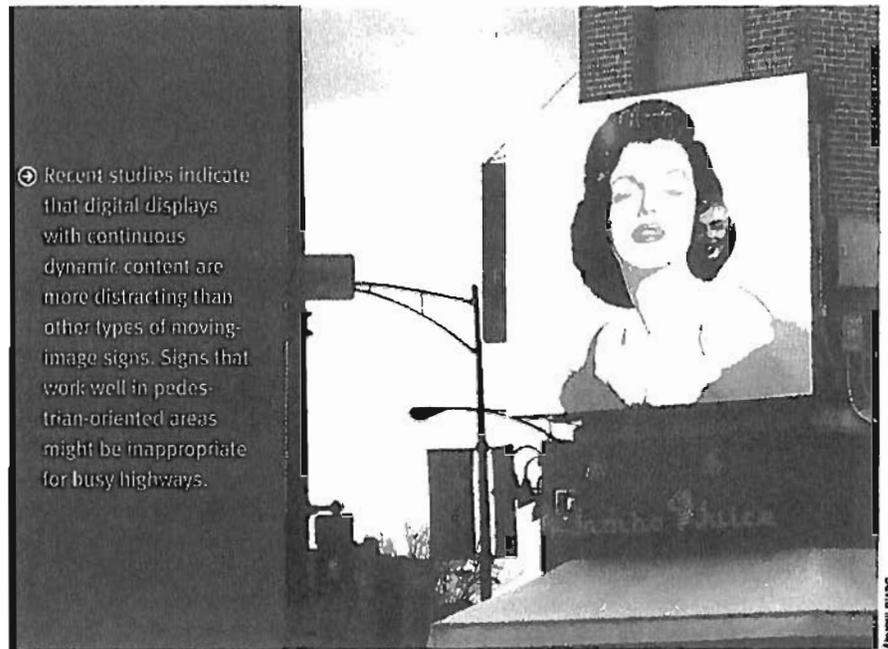
remove 15 of the 30 conventional static image billboards in the city in exchange for permission to install its digital billboards. The city will permit the company to install no more than eight dynamic signs at four to six locations.

The City of San Antonio amended its sign and billboard ordinance in December 2007 to require the removal of up to four static billboards in exchange for permission to install one digital display billboard in their place. Prior to that amendment the city had no provisions for digital sign technology, but it did already have a two-for-one replacement requirement. The city has developed a sliding scale that determines the number of billboards required to be removed in exchange for a single digital billboard. According to the scale, the number of digital signs permitted is determined by the total square footage of static billboard faces removed. Therefore, a billboard company will be required to demolish as few as three and as many as 19 billboards to get one new digital billboard structure placed or an existing static billboard face replaced.

IT DEPENDS ON YOUR DEFINITION OF 'DISTRACTING'

Digital signs are brighter and more distracting than any other type of sign. Other attention-grabbers, like strobe lights, mirrors, searchlights, and signs with moving parts, are typically prohibited (or allowed under very narrow circumstances) by even the most hands-off jurisdictions. The high visual impact of digital signs has prompted highway and traffic safety experts to try to quantify how drivers respond to such distractions. This research, which is summarized below, has been instrumental in helping cities craft new sign ordinances that address the specific characteristics of such signs, including how often the messages or images change, the degree of brightness, and their placement relative to residential areas.

The Federal Highway Administration is currently conducting a study on driver distraction and the safety or impact of new sign technologies on driver attention. The initial phase, which is slated to be completed by June 2008, will identify and evaluate the most significant issues and develop research methods needed to secure definitive results. The FHWA anticipates the second phase of the research study and final report will be completed in the latter part of calendar year 2009. Also, the Transportation Research Board (a branch of the National Science Foundation) has formed a subcommittee to examine research needs on electronic signs.



Until a couple of years ago, one of the only studies on the effects of billboards and traffic safety was a 1980 survey of existing research on the subject prepared for the Federal Highway Administration (Wachtel and Netherton 1980). It did not, however, provide any concrete answers. The study noted "attempts to quantify the impact of roadside advertising on traffic safety

have not yielded conclusive results." The authors found that courts typically rule on the side of disallowing billboards because of the "readily understood logic that a driver cannot be expected to give full attention to his driving tasks when he is reading a billboard."

A 2006 study by the National Highway Traffic Safety Administration that focused primarily on driver distractions inside the car (i.e., phone use, eating, and changing the radio station) concluded that any distraction of more than two seconds is a potential cause of crashes and near crashes.

A 2004 study at the University of Toronto found that drivers make twice as many glances at active (i.e., video signs) than they do at passive (i.e., static) signs. All three of the moving sign types that were studied (video, scrolling text, and trivision) attracted more than twice as many glances as static signs. They also found that the drivers' glances at the active signs were longer in duration; 88 percent of glances were at least 0.75 seconds long. A duration of 0.75 seconds or longer is important because that is the amount of time required for a driver to react to a vehicle that is slowing down ahead. Video and scrolling text signs received the longest average maximum glance duration.

An earlier study also at the University of Toronto that was designed to determine whether video billboards distract drivers' attention from traffic signals found that drivers made roughly the same number of glances at traffic signals and street signs with and without full-motion video

ORDINANCES AND ZONING REPORTS

- City of Minnetonka, Minnesota. 2007. Staff report to city council recommending adoption of an ordinance regulating digital signs. June 25. Available at www.eminnetonka.com/community_development/planning/show_project.cfm?link_id=Dynamic_Signs_Ordinance&cat_link_id=Planning.
- City of San Antonio City Code, Chapter 28. Amendment Adding Provisions for Digital Signs. Last revised December 2, 2007. Available at <http://epa.sanantonio.gov/dsddocument:central/upload/SIGNsecDRAFT.pdf>.
- City of Seattle, Land Use Code, Section 23.55.005 Signs, Video Display Methods. Last revised 2004. <http://clerk.ci.seattle.wa.us/~public/clrkhome.htm>.

billboards present. This may be interpreted to mean that while electronic billboards may be distracting, they do not appear to distract drivers from noticing traffic signs. This study also found that video signs entering the driver's line of sight directly in front of the vehicle (e.g., when the sign is situated at a curve) are very distracting.

A 2005 study by the Texas Transportation Institute of driver comprehension of sign messages that flash or change concluded that such signs are more distracting, less comprehensible, and require more reading time than do static images. While this research did not evaluate advertising-related signs, it does demonstrate that flashing signs require more of the driver's time and attention to comprehend the message. In the case of electronic billboards, this suggests that billboards that flash may require more time and attention to read than static ones.

The City of Seattle commissioned a report in 2001 to examine the relationship between

Sign messages that flash or change are more distracting, less comprehensible, and require more reading time than do static images.

The Seattle study also found that drivers expend about 80 percent of their attention on driving-related tasks, leaving 20 percent of their attention for nonessential tasks, including reading signs. The report recommended the city use a "10-second rule" as the maximum display time for a video message.

APPROACHES TO REGULATING DIGITAL DISPLAY SIGNS

Most cities and counties that have amended their sign ordinances to address the use of digital display on on-premise signs and billboards have done so in response to an application by a sign owner to install a new sign that uses the

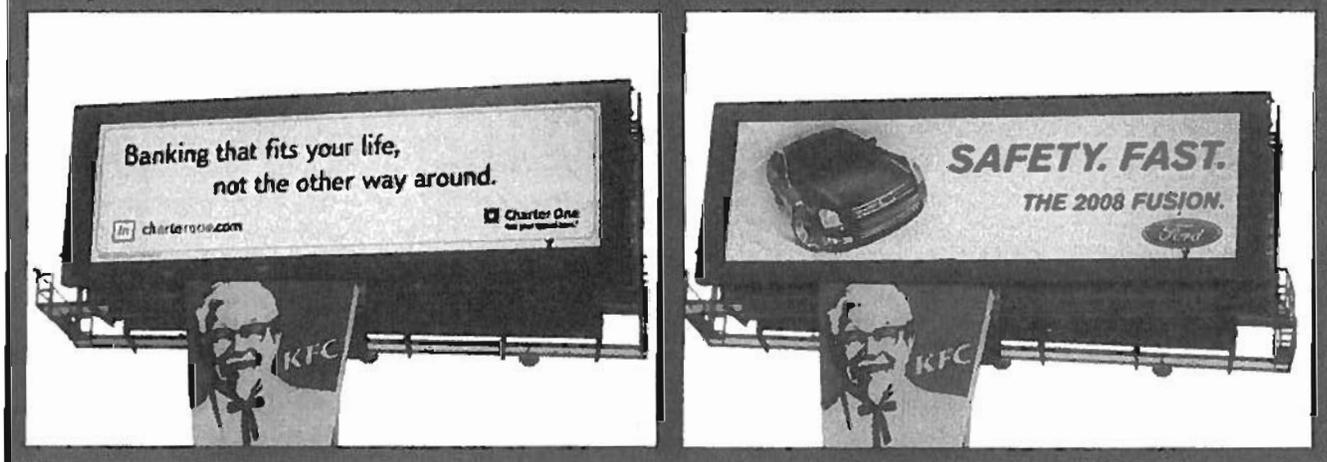
ital video display signs while still permitting electronic message centers.

3) A relatively small number of sign ordinances have been amended to allow video display signs under narrowly prescribed circumstances and with numerous conditions.

For jurisdictions that want or need to allow them, the following section explains additional considerations that should be added to a sign ordinance to effectively regulate digital display signs.

Sign type. The ordinance must indicate whether the digital display can be used on off-premise billboards only, on on-premise signs only, or on both sign types.

Billboards with changeable digital images allow billboard companies to dramatically increase their revenue by renting the same sign face to multiple advertisers.



electronic signs with moving/flashing images and driver distraction. The study was conducted by Jerry Wachtel, who in 1980 had conducted the first-ever study on signs and traffic safety for the Federal Highway Administration.

The Seattle report concluded that electronic signs with moving images will distract drivers for longer durations (or intervals) than do electronic signs with no movement. The study also noted that the expanded content of a dynamic sign also contributes to extended distraction from driving. Specifically it found that signs that use two or more frames to tell a story are very distracting because drivers are involuntarily compelled to watch the story through to its conclusion.

technology or in response to a sign owner having replaced an existing sign face with a digital display. Some cities, like Minnetonka, were required by a court settlement with a billboard company to allow the technology. Although regulations for digital signs are still relatively new, we can group the regulatory approaches (or lack thereof) into three general categories:

- 1) Most sign ordinances are still silent on the issue of digital video displays, but almost all do regulate electronic message centers and also prohibit or restrict signs that move, flash, strobe, blink, or contain animation.
- 2) A smaller but growing number of sign ordinances contain a complete prohibition on dig-

Definitions. The definitions section must be updated to include a detailed definition of digital display signage and the sign's functional characteristics that could have an effect on traffic safety and community aesthetics.

Zoning districts. The ordinance should list the districts in which such signs are permitted and where they are prohibited. Such signs are commonly prohibited in neighborhood commercial districts, historic districts, special design districts, and scenic corridors, in close proximity to schools, and in residential districts. On the other end of the spectrum, East Dundee, Illinois, for example, expressly encourages digital video signs in two commercial overlay districts, but only a

RESOURCES

- ◆ Beljer, D. and A. Smiley. 2005. "Observed Driver Glance Behavior at Roadside Advertising Signs." *Transportation Research Record*.
- ◆ Dudek, C. L. et al. 2005. "Impacts of Using Dynamic Features to Display Messages on Changeable Message Signs." Washington, D.C.: Operations Office of Travel Management: Federal Highway Administration.
- ◆ "Dynamic" Signage: Research Related To Driver Distraction and Ordinance Recommendations. Prepared by SRF Consulting Group, Inc. for the City of Minnetonka, Minnesota. June 7, 2007 (www.digitalooh.org/digital/pdf/2007-minnetonka_digital-srf_consulting_report06-08-07.pdf).
- ◆ "The Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data." 2006. National Highway Traffic Safety Administration, U.S. Department of Transportation. April.
- ◆ McBride, Sarah. "Seeing the Light: In Billboard War, Digital Signs Spark a Truce." *Wall Street Journal*. February 3, 2007.
- ◆ Smiley, A. et al. 2004. "Impact of Video Advertising on Driver Fixation Patterns." *Transportation Research Record*.
- ◆ *Unsafe at Any Speed: Billboards in the Digital Age*. 2007. Scenic America Issue Alert 2. Available at www.scenic.org/pdfs/eb.pdf. The Scenic America website has a number of excellent resources for planners and citizens interested in regulating digital signage, including a downloadable PowerPoint presentation, research summaries, and model ordinances.
- ◆ Wachtel, J. and R. Netherton. 1980. "Safety and Environmental Design Considerations in the Use of Commercial Electronic Variable-Message Signage." Report No. FHWA-RD-80-051. Washington, D.C.: Federal Highway Administration.

few land uses—new car dealerships, multi-tenant retail centers, and amusement establishments—are permitted to have them.

Placement and orientation. A minimum spacing requirement between signs and residential areas should be considered, as should a provision requiring that the sign face be oriented away from residential areas and other scenic or sensitive areas. The Baker and Wolpert study recommended that dynamic signs be limited or prohibited at intersections, in demanding driving environments, and in places where they obstruct a driver's view. In Seattle, the sign face of on-premise digital signs must not be visible from a street, driveway, or surface parking area, nor may it be visible from a lot that is owned by a different person.

Sign area. For on-premise signage, many ordinances include a limit on the percentage of the sign face that can be used for digital display. Thirty percent is common although in some areas, such as entertainment districts, that proportion may be much higher.

Illumination and brightness. The ordinance should address the legibility and brightness of a sign both during the day and after dark. During the day the issue is reducing or minimizing glare and maintaining contrast between the sign face and the surrounding area. At night the issues are the degree of brightness and its impact on driver distraction and on light trespass into residential areas. In the study for the City of Minnetonka, researchers noted the challenge posed by this aspect of digital signs: "There is no objective definition of excessive brightness because the appropriate level of brightness depends on the environment within which the sign operates."

Message duration and transition. The ordinance must include a minimum duration of time that a single message must be displayed. Typically this is expressed in terms of seconds. The San Antonio billboard ordinance requires each image to remain static for at least eight seconds and that a change of image be accomplished within one second or less.

The city's ordinance requires any portion of the message that uses a video display method to have a minimum duration of two seconds and a maximum duration of five seconds. Further, it requires a 20-second "pause" in which a still image or blank screen is showed following every message that is shown on a video display.

Public service announcements. In exchange for permission to use digital displays, owners of billboards in Minnesota and San

Antonio have agreed to display emergency information such as Amber Alerts and emergency evacuation information. Such a requirement can be included in an ordinance or imposed as a condition of approval.

Whether undertaking a comprehensive revision of a sign ordinance or more limited, strategic amendments to address digital technology, there are other common provisions related to electronic and digital signage that should be revisited as part of the rewrite. At the top of the list would be updating standards for conventional electronic message centers to reflect the latest research regarding driver distraction and message duration. Also, the boilerplate provisions common to so many ordinances that prohibit signs that flash, are animated, or simulate motion should also be rethought. These provisions could conceivably be used to prohibit digital displays without additional regulations. The problem is that these characteristics are very rarely defined in the ordinance and remain open to interpretation. Also, whenever new regulations are being considered for digital billboards, jurisdictions should take the opportunity to draft new provisions to address digital technology for on-premise signs as well. And, finally, any time the sign ordinance goes into the shop for repair—whether to address digital signage or to make broader changes—is a good time to remove or revise any provisions that violate content neutrality rules.

NEWS BRIEFS

SMART GROWTH TAKES A HIT IN MARYLAND

By Lora Lucero, AICP

The *Baltimore Sun* hit the nail on the head when it reported on March 12 "If the state's highest court declared that Maryland law does not require local governments to stick to their master plans or growth-management policies in making development decisions."

Trail, et al. v. Terrapin Run, LLC, et al. presented an important question for the court to address: What link is required between the community's adopted plan and the decision by the Zoning Board of Appeals (ZBA) to grant or deny a request for a special exception? In a 4 to 3 vote, the majority concluded that Article 66B, the state planning law, is permissive in nature and plans are only advisory guides, so a strong link between plans and implementation is not required. The court affirmed the county's

19.36.030

(5) Types and Placement of Primary Signs. The permissible types of primary signs, their placement and other limitations are as follows:

(a) Freestanding Signs.

(i) Freestanding signs shall be wholly located within the center two-thirds of the frontage of the property on the street or 15 feet from the adjacent property line, whichever provides the longer distance from the closest part of the sign to the adjacent property line; provided, however, that a freestanding sign may be located within five feet of the property line with the written consent of the title holder of the adjacent property. If such consent is obtained, the consenting party or his successors or assigns may not place a freestanding sign on his property within 20 feet of the first freestanding sign.

(ii) A freestanding sign located five feet from the property line shall be wholly behind the five-foot setback, and a freestanding sign located at the building line shall be wholly behind the building line.

(iii) Any freestanding sign must be integrated. That is, all elements of the sign must be incorporated in a single design. Auxiliary projections or attachments not a part of a single design are prohibited.

(b) Building-Mounted Signs.

(i) Any building-mounted sign shall not project more than five feet from the face of the building to which the sign is attached. Any structural supports shall be an integral part of the design or concealed from view.

(ii) Any building-mounted signs shall be limited in content and message to identifying the building and the name of the firm, or the major enterprise, and principal product and/or service information.

(iii) Special projection signs are permitted within the CBD and are allowed in addition to permitted signage. Special projection signs are limited to one per business and shall be attached to the building. The bottom of the sign shall be at least seven feet above the sidewalk.

(c) Roof Signs.

(i) All such signs must be manufactured in such a way that they appear as an architectural blade or penthouse and are finished in such a manner that the visual appearance from all sides is such that they appear to be a part of the building itself.

(ii) All roof signs shall be installed or erected in such a manner that there shall be no visible angle-iron support structure.

(d) Canopy Signs.

(i) All such signs shall be manufactured in such a way that they appear as an architectural

blade or penthouse and are finished in such a manner that the visual appearance from all sides is such that they appear to be part of the building itself.

(ii) All canopy signs shall be installed or erected in such a manner that there shall be no visible angle-iron support structure.

(c) Monument Signs. Monument signs shall not exceed eight feet in height measured from the finished grade to top of the sign and not exceed 32 square feet in area. Monument signs shall be located within the center two-thirds of street frontage. Signs may be located up to the front property line when there is no sight visibility obstruction from driveways or intersections caused by placement of the sign.

(f) Pylon Signs.

(i) Pylon signs shall not exceed 10 feet in height measured from the finished grade to top of the sign and not exceed 48 square feet in area. Pylon signs shall be located within the center two-thirds of street frontage. Signs may be located up to the property line when there is no sight visibility obstruction from driveways or intersections caused by placement of the sign.

(ii) If a pylon sign is used instead of a pole sign an additional 15 percent of wall signage area over that than otherwise permitted shall be allowed. The additional square footage may be used on any facade that permits wall signage.

(g) Electronic Message Center Signs. Stationary electronic message center signs and other changeable copy signs may be incorporated in the permanent signage for a business or development in the C-3, C-4 and C-5 zoning districts. Said signs shall meet the following standards:

(i) The sign shall follow the standards established in subsections (2) through (5) of this section;

(ii) Only one such sign shall be used in a development and it shall not exceed 50 percent of the sign area for that sign;

(iii) The electronic message center sign shall be included in the maximum number of signs or sign area allowed for the business or development;

(iv) The sign shall be constructed as an integral part of a permanent sign constructed on site, except as permitted under subsection (5)(g)(xiii) of this section. "Integral" shall be considered to be incorporated into the framework and architectural design of the permanent sign;

(v) Electronic message center signs may be used only to advertise activities or goods or services available on the property on which the sign is located, or to present public service information;

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(vi) No segmented message shall last longer than 12 seconds;

(vii) Only those changing electronic message signs utilizing monochrome colors such as white, red or amber shall be permitted. No RGB (red-green-blue) technologies or other multicolored display shall be permitted in an electronic message center sign in a manner that would create a video board. This subsection does not prohibit the use of color in a sign that is not a video board;

(viii) No changing electronic message center may contain the use of animation, video or flashing as defined in this chapter;

(ix) Changing electronic message signs shall maintain a 2-1-2 transition frequency. "2-1-2" means a message display time of a minimum of two seconds, a transition time between messages of a maximum of one second, followed by a message display time of a minimum of two seconds with all segments of the total message to be displayed within 10 seconds. Displays which scroll onto the signboard must hold for a minimum of two seconds including scrolling. Frame effects may be used for the purpose of transition;

(x) Electronic message center signs shall come equipped with automatic dimming technology which automatically adjusts brightness because of ambient light conditions;

(xi) The owners of electronic message center signs shall include a signed letter accompanying their permit application, certifying that they will not tamper with the manufacturer preset automatic brightness levels on such signs;

(xii) For locations adjacent to a residential use or district electronic displays shall be turned off between the hours of 10:00 p.m. and 6:00 a.m.;

(xiii) A single, portable (nonstationary) electronic message center sign may be located in the window of a business subject to the provisions of subsection (5)(g) of this section. The portable sign shall comply with the provisions of subsections (5)(g)(v) through (ix) of this section.

(6) Incidental Signs. "Incidental signs" means signs less than four square feet in surface area, of a noncommercial nature, intended primarily for the convenience of the public. Included are signs designed to guide or direct pedestrian or vehicular traffic to an area, place or convenience; designating restrooms, address numbers, hours of operation, entrances to a building, directions, help wanted, public telephone, etc. Also included in this group of signs are those designed to guide or direct pedestrians or vehicular traffic to an area or place on the premises of a business, building or develop-

ment by means of a directory designating names and addresses only.

(7) Directional Signs. Directional signs to give the traveling public specific information as to gas, food or lodging available on a crossroad with the state highway may be erected in accordance with RCW 47.42.046 and 47.42.047.

(8) Gasoline Price Signs. Gasoline price signs shall be located greater than five feet from the property line and must be permanently anchored. Such signs may be freestanding, may be attached to marquees or canopy columns, or may be reader boards. The sign area shall not exceed 20 square feet, and no more than one such sign for each street frontage is permitted. Gasoline price signs shall not be included in determining the number of primary signs, nor in determining the permissible number of freestanding signs.

(9) Window Signs. The total surface area of all window signs excluding lighted signs shall not exceed 50 percent of the window area. Such signs shall not be included in determining the number of primary signs, nor in determining the permissible sign area for each facade. Window signs do not require permits.

(10) Signs for Nonconforming Buildings or Uses. There remain in the city some buildings which were built prior to enactment of Oak Harbor's present zoning ordinance. Generally, under the city zoning ordinances, these legal nonconforming buildings or uses are allowed to remain unless they are altered or improved. As few of these nonconforming buildings are located behind the building line as determined by ordinances currently in effect, almost no signing would be possible under the foregoing sign code provisions. Therefore, this section provides for a partial relaxation of the standard sign requirements for signs on legal nonconforming buildings, only so long as the buildings or uses remain legally nonconforming under provisions of the Oak Harbor zoning code.

(11) Permitted Signs on Legally Nonconforming Buildings. All provisions of the sign code for business district signs apply to signs on nonconforming buildings or uses with the following exceptions:

(a) Building-mounted signs may project over the building line, but shall not approach a street closer than five feet. Such signs may extend five feet from the face of the building to which attached and shall have a maximum clearance over sidewalk below of eight feet, six inches.