

**PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
April 24, 2012**

ROLL CALL: Present: Keith Fakkema, Jeff Wallin, Gerry Oliver and Jill Johnson-Pfeiffer.
Absent: Bruce Neil, Kristi Jensen and Greg Wasinger.
Staff Present: 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. WALLIN MOVED, MR. OLIVER SECONDED, MOTION CARRIED TO APPROVE THE MARCH 27, 2012 MINUTES AS PRESENTED.

PUBLIC COMMENT:

Martha Yount (364 NE Ronhaar St.) had two questions. She asked about the property between the shopping center on Highway 20 and Ely Street where Island Café and a smaller shopping center are. She wanted to know what businesses are slated to go into the open field area once it is developed and she asked about the results of the traffic study for Jehovah's Witnesses church project located at the end of NE Ronhaar Street.

Mr. Kamak said that the development application for the property between SR20 and Ely Street is for two buildings. The larger building will house Island Drug and the smaller building is for a commercial use but we don't know what business will go in yet. Ms. Sartorius added that the second small building is slated to be an office but there isn't an identified tenant at this time.

Ms. Sartorius explained that there was a conditional use hearing before the City's hearings examiner regarding the Jehovah's Witnesses church project and the traffic impacts were addressed in the staff report to the hearings examiner which will be provided to Mrs. Yount.

ADOPTION OF THE OFFICIAL ZONING MAP – Public Hearing

Ms. Sartorius presented a draft ordinance that would adopt the Official Zoning Map for the City of Oak Harbor. Ms. Sartorius explained that the Washington State Growth Management Act requires that counties and cities adopt zoning and other development regulations that are consistent with their adopted Comprehensive Plans. Cities are authorized to adopt appropriate regulations complying with state law for the regulation of property in the city, including adopting zoning codes and official zoning. Adoption of the zoning map with signatures of the Mayor and City Clerk with the City's seal affixed formalizes this action. The City of Oak Harbor updates its Comprehensive Plan and Future Land Use Map by taking action on Comprehensive Plan amendments annually in December with subsequent amendments to zoning and the Official Zoning Map following in the spring.

Ms. Sartorius recommended that Planning Commission hold a public hearing and recommend adoption of the ordinance and the attached official zoning map to City Council.

Commission Discussion

Mrs. Johnson-Pfeiffer asked if the zoning map takes into consideration the same zoning that was in the Shoreline Master Program (SMP). The Shoreline Master program designates the area around the Marina as maritime industrial usage and the zoning map shows the area as Public Facilities zoning. Do these need to match?

Mr. Kamak explained that they do not need to match and that the designations in the SMP are slightly different than the zoning classifications. They can be considered as layers on a map. We have a Comprehensive Plan amendment this year and if those amendments go forward then those properties will be rezoned.

Mr. Fakkema asked what a Scribner's error was. Ms. Sartorius said they were minors such as grammatical errors and typographical errors.

Mr. Fakkema opened the hearing for public comment. Seeing none, the public hearing was closed.

ACTION: MR. OLIVER MOVED, MRS. JOHNSON-PFEIFFER SECONDED A MOTION TO RECOMMEND THAT THE CITY COUNCIL ADOPT THE ORDINANCE AND THE ATTACHED ZONING MAP. MOTION CARRIED UNANIMOUSLY.

NIGHTCLUB ORDINANCE – Public Meeting

Mr. Kamak reported that the City Council has received several complaints about the impact of large nightclubs on surrounding uses. Most of them originate from residences around the nightclub Element; however, a few comments have also originated from residences along SE Hathaway Street and SE Ireland Street that are in proximity to nightclubs along Pioneer Way. The most common complaint is noise from parking lots adjacent to these uses, but other impacts such as loitering, trespassing, public urinations and lewd conduct are also significant impacts. Since the request originated from the public, it is appropriate for the Planning Commission to consider this item and take public comment. Comments and discussions at the meeting can help frame the problem and also provide options/amendments to pursue.

Mr. Kamak explained that night clubs are regulated in the business license section of the Oak Harbor Municipal Code (OHMC). "Nightclub" means any "premises" as defined herein on which any music, singing, dancing or other combination of these activities is permitted as entertainment after 10:00 p.m., on one or more days per week. The playing of incidental music on any premises where the receipts for the sale of food constitute 75 percent or more of the gross business income of the establishment shall not be considered a "nightclub" for purposes of this chapter, unless an opportunity for social dancing is provided on the premises.

Mr. Kamak noted that nightclubs are not listed as a use in any of the zoning districts in OHMC Title 19 Zoning. Any use can apply for a nightclub license. The review process for nightclub licenses currently goes through the police department and the City Council will either approve or deny the application. Mr. Kamak reiterated that the review of nightclub licenses is not a land use issue but a license issue. That is why the Planning Commission doesn't review the license and it goes straight to City Council.

Mr. Kamak said the following six businesses currently have nightclub licenses in Oak Harbor:

- Element – CBD (Central Business District)
- Seven West – CBD (Central Business District)
- Off the Hook – CBD (Central Business District)
- Oak Harbor Tavern – CBD (Central Business District)
- Mi Pueblo – CBD (Central Business District)
- El Cazador – C5, Highway Corridor Commercial

These uses are classified as Bars, Taverns and Restaurants – all of which are permitted uses in their respective zoning districts. Some of these uses can continue to exist without a nightclub license.

Mr. Kamak asked the Planning Commission to consider the following:

- Should the size restriction that is being requested apply only to uses that apply for a “Nightclub” license?
- Should a size restriction for “Nightclub” license applicants apply to only certain districts?
- If “size” is the issue, should there be a general size limitation on uses in certain zoning districts?

Mr. Kamak noted that the City of Anacortes doesn’t allow uses larger than 25,000 square feet in their downtown.

Mr. Kamak recommended that the Planning Commission take comments from the public and he provided copies of public comment that he had recently received through the mail and e-mail.

Mr. Fakkema opened the meeting for public comment.

Billie Cook (651 SE Bayshore Drive) indicated that she was one of the initiators of the request before the Planning Commission. Ms. Cook stated that after reading page 9 of the staff report she recognized that her suggestion to the Planning Commission to limit the size of night clubs may not be feasible but Mr. Kamak’s comments on the possibility of restriction nightclubs by area to achieve noise reduction are encouraging.

Ms. Cook asked the Planning Commission to start the process of solving the negative impacts of nightclubs versus the rights of other land users. She noted that there were the same problems 30 years ago with Cathay Palace, the Blue Dolphin and then the Lava Lounge and now Element. She recognized that any action taken now would not be retroactive but asked the Planning Commission to review, discuss and modify the City’s zoning code so as to alleviate the very real problems concerning nightclub impacts.

Ms. Cook stated she didn’t believe that nightclubs should be allowed close to churches, schools, residences or public amenities such as parks. There needs to be a conditional use permit required in any zone where nightclubs reside next to these land uses. The current practice of allowing nightclubs anywhere is unfair to surrounding land users and not in the best interest of the nightclub owners who may be unaware of the objections of nearby land users and they have to deal with them after the fact.

Ms. Cook thought that the base of the problem is that nightclubs are not a recognized land use and piggy-back onto another land use. She believed that nightclubs should be a separate land use so that they have to adhere to the same rules that other land uses have to follow. She stated that licenses are all but impossible to deny, regulate or revoke and the City finds itself in a morass in trying to impose conditions to mitigate but they have to have the cooperation of the licensee.

Ms. Cook offered to serve on a citizens committee to further work on this issue.

Richard Everett (651 SE Bayshore Drive) stated that he believed the problem began when the condominiums were built inside of the Central Business District (CBD). Now there is a conflict

between residences and businesses. He recommended considering the type and size of a business to restrict them from encroaching on areas where we know families or elders live. Mr. Everett noted that there are people with health issues that have been severely impacted and can't even live in their unit anymore. He asked that the Planning Commission consider the elderly that are looking for some semblance of peace in their years as senior citizens.

Yvonne Howard (2300 SW Vista Park Drive) stated that she works at 656 SE Bayshore Drive Suite 2 which is the church next door to Element. She said that they are affected by Element with the people that hang out in the parking lot, the smoking in front of the door and all of the colorful language that they have to endure while holding Bible study. The young kids in the youth group are affected by Element activities as well. She believed that this needed to be addressed.

Kelly Beedle (940 SE Pioneer Way) stated that she was the owner of the Oak Harbor Tavern which has been there since 1859. The tavern is right next to a church and houses and they haven't had any problems. She didn't understand how the City could limit the size because when someone rents a building it is already a certain size. She believed that business is about respect. Respect of the citizens, the City of Oak Harbor and the police. She asked why Element owners weren't present because she knew that business owners were notified of this meeting. She also wondered why there were only six licenses in the City because restaurants should have licenses too since they are playing music after 10:00 p.m.

Ms. Beedle suggested:

- Talking to the Element owners
- Borrowing equipment that monitors noise levels from the Naval Air Station
- Element should lean on their customers and require the customers be respectful and not just feed them alcohol and let them act like animals
- A fine system

Paul Newman (886 SE Bayshore Drive) stated that he could be considered at "ground zero" because he is located right next to Mi Pueblo, opposite the old Lava Lounge or The Hook and the Oak Harbor Tavern. He echoed what Ms. Beedle said about the Oak Harbor Tavern not being a problem and he added that Mi Pueblo is not a problem either. Most of the so called night clubs are not the problem it is just Element. He hoped the Planning Commission would consider "Nuclear options" with regard to the Element.

Mr. Newman noted that the City of Oak Harbor spent tens of thousands of tax dollars on the best study that he has seen Oak Harbor conduct. The study defined the concept and character of Windjammer Park. Element represents an absolute contradiction of the character and the concept of what the City was aiming for and it is just as much land use as it is licensing or anything else. He said that Element in that area is about as appropriate as an adult book store next to an elementary school. Within 100 yards of Element are kids playing T-ball and Little League, families picnicking and a bus depot where teenagers hang out to take advantage of the free busses. Within a couple of hundred yards, the chain link fence is falling down because people climb over it because they don't want to walk on the street to get from Mi Pueblo to Element and back. Some of the neighbors have put in gates and they don't use the gates and still jump over them because they are drunk.

Mr. Newman talked about the noise restrictions in OHMC Section 6.56.030 that describes specific noises that are prohibited. Mr. Newman said that all of the noises listed are noises coming out of Element.

Mr. Newman was concerned that during the summer when it stays light later and kids are still playing that there may be another fight in the parking lot or another shooting in the parking lot and it is another incident or tragedy waiting to happen and Element should never been allowed there in the first place and is violating noise restrictions.

Mr. Newman asked why Element's license is automatically renewed and how couldn't the license be reviewed year after year? Mr. Newman pointed out OHMC Section 5.22.070 Revocation of License and recited Section 5.22.070(1) which says "The license was procured by fraud or false representation of fact: or..." Mr. Newman said that false representation of fact does not have to be intentionally done. It can be false with all the good intent in the world. If the police investigated this and believed there wouldn't be problems with all the best intent in the world but there are problems then there is a false representation of fact that has been made. Mr. Newman didn't think that a revocation of the license would be beyond what can be done in this respect. That is what he meant by "Nuclear options". He thought that the City should encourage Element to relocate and to cooperate in that relocation. Mr. Newman pointed out that there is all of Goldie Road and all of Ault Field Road. There are locations for Element where it would do better and the City would do better than putting it in Windjammer Park where it has no business being in the first place and represents a contradiction of a lot of tax payer money.

Quentin Reeves-Herbert said that he frequents some of the nightclubs that are being discussed and most of the nightclubs have no problems other than Element. He noted that he was involved in the bottle slashing incident at Element. He thought that the size was a problem and if you don't have enough security to watch over a place that big then problems will occur. He said that there were two other incidents that occurred on the same night that the bottle slashing incident occurred and because they didn't have enough staff or manpower to cover the entire building the slashing was allowed to happen and the other person involved was allowed to actually walk straight out the front door, get in a vehicle and leave. Security and a sense of security for the patrons and the neighbors is a point that he wanted the City to address.

Darnell Allen (7-West business owner) said that when Element lets out at night there are a lot of people coming out of the bar all at the same time and it sounds like a stadium in downtown Seattle when a game just let out. Mr. Allen said that the police are there every weekend doing the best they can to help. The magnitude of people that come out at one time is overwhelming and chaotic. He thought maybe cutting down the size might work. Mr. Allen pointed out Mr. Reeves-Herbert as a peacemaker, and since we are a small community we know the people that are bad actors and there is no reason for those people to be allowed in. You have a right to refuse anybody and if you can't identify that and you are taking money over respect to these people I would be upset too. My best suggestion would be to cut down the size.

Mr. Oliver asked what Element's square footage is and of that square footage, how much is taken up by Bayside Casino? Mr. Kamak did not have the square footage information yet but would bring square footage information about the average building sizes downtown as a gauge for comparison of the building stock available downtown. He believed that Element was a little less than 10,000 square feet.

Mr. Oliver said that normally people will go to the central business district to find music and entertainment. His concern was that if there is a restriction of 2,000 square feet, as an example, that would potentially cause more nightclubs to pop up and potentially multiply the problem.

Mr. Oliver asked if it was going to mandatory for all nightclubs licenses to renew every 90 days since that is what Element has to do. Mr. Kamak said that the 90-day license renewal was a special condition place on Element because of all the complaints and issues surrounding them and he did not think the other like nightclub license holders had the same conditions imposed on them.

Mr. Oliver suggested a sponsor night. Seniors and condo owners should be sponsored by some of the people that frequent the nightclub so they can physically see who Element is affecting as opposed to just paper complaints to police. Mr. Oliver also suggested a meeting between all tavern, bar and nightclub owners and have a workshop to figure it out.

Richard Everett (651 SE Bayshore Drive) said that they have dealt with Chief Wallace and the Mayor extensively and have suggested things like Mr. Oliver has suggested repeatedly. On the surface the suggestion is excellent but the reality is that Mr. Kumberfelt has failed to meet with them on several occasions when we were supposed to get together. We can go forward with a get-together but there has to be some teeth in that to make it happen because Mr. Kumberfelt's only concern is serving his customers inside his bar and he submitted a letter to the City Council saying that that was where his responsibility as a business man is. He has also made the statement that when they walk out the door they are no longer his problem. Until he is made to participate, I think you are spinning your wheels. It is our opinion that the 90-day review is not being done and that it has been over a year since the last review.

Ms. Johnson-Pfeiffer clarified that the Planning Commission is a land use commission and she is listening for comments that are within the scope of the Planning Commission and what they are allowed to refer to the City Council. From a land use perspective looking at the scale and size of businesses allowed in the CBD, she was more comfortable with targeting any type of business by saying that 20,000 feet of any type of business is too big for the CBD, she said she was less comfortable with a conversation that says 20,000 square of nightclub use. From a licensing perspective, if the conversation is how you administer a license; that is not within the Planning Commission's scope. Ms. Johnson-Pfeiffer referred to Mr. Newman's comment about Windjammer Park. She noted that all of the downtown development is predicated on the mixed use concept which is in the Comprehensive Plan. We have built this entire downtown concept on this idea that life in urban areas can be consolidated living. She was concerned that land use decisions will be made on a particular problem and that would be in contradiction to this value that is in multiple documents in the City, that we want people to work and live in the same area. The bigger problem for the City is how do you keep integrating these types of uses and if these uses are incompatible and if the community is saying we don't like our businesses where our residential is then there is a bigger picture problem in terms of what our foundation document is which is that we want all of this infill and mixed use living. Reaction to one situation isn't okay in terms of a land use perspective. Ms. Johnson-Pfeiffer said that she had fundamental concerns where anything that is specific about one individual's behavior dictating land use. So if it is an Element problem she was not sure that that conversation should be a land use conversation. She has concerns that even happened and thought that a specific problem with a specific business needs to be dealt with appropriately and not dealt with a broad brush like this. She summarized, if we don't want mixed use as a community that is the conversation, and we need to look at our source documents and the second part is that if we don't want 20,000 square feet of retail or anything else, then deal with the size and not a specific use.

Richard Everett (651 SE Bayshore Drive) said that their comments were made so that the Planning Commission would understand the nature of the problem and to encourage the

Planning Commission to find a solution in the Planning Commission's domain that would support the City Council and the objectives of the City. Mr. Everett said that he hoped the Planning Commission would say to the City Council that you perceive obvious problems with mixed use and he didn't think there would be cut and dry rule for all situations. He suggested that the Planning Commission say to the Council that you need support in achieving your goals by making a 90-day review on establishments that clearly indicate conduct that is inappropriate. There are a lot of good businesses down there and I would support their existence and location.

Paul Newman (886 SE Bayshore Drive) said that Ms. Johnson-Pfeiffer has made some important points. He began thinking that this was a land use decision and that is one of the reasons he was here. He said Element is simply the first example of what can go wrong and dealing with that will prevent things from happening in the future. The second more important thing is the mixed use concept. He wanted Windjammer Park to be what it is suppose to be and the mixed use concept may be a more important thing. If you have retail below and people above and the business district evolves in that fashion I guarantee you Element and any other operation like it is going to become more and more of a thorn in everybody's paw. The more mixed use you have the bigger problem you are going to have and the more people you are going to see here inevitably. Other tavern owners have testified that it is the size and volume of it. Whether the owner is the corporate citizen he ought to be is a point we can debate but it is not the relevant part. The fundamental inherent quality of the size and scope of Element or any place like it is going to be at odds not just with Windjammer Park but with the mixed use development as a whole.

Mr. Oliver asked if the size limitation is adopted, how that would affect businesses that are in that district now. Mr. Kamak said that if we take that approach we would have to decide where the restriction would be, whether it will be in the land use section or will the restrictions be in the business license section. If current license holders will be impacted we may have to amend that section as well, to address the issue of what the consequences are for existing nightclub license holders. Either they will be non-conforming, which means that they can continue to exist in their current capacity but won't be able to expand any further, only minor modifications will be allowed. Any restrictions that we may consider will not directly impact existing uses.

Mr. Wallin commented that it comes down to the annual license review or the 90-day license review and that most of the other businesses conform to a certain standard and Element is not. He thought that the initial problem can be addressed through the license review process. Mr. Wallin asked if the license were revoked would they be forced to close their doors at 10 p.m. and would it alleviate the problem of 100 people coming out the door a two in the morning.

Mr. Kamak said that there was more frequent police reporting on Element and the police chief gives a report to the City Council and City Council gets to choose whether they want to renew the license. Mr. Kamak said he would have more information at the next meeting. Mr. Kamak said that Element could continue to operate as a business and if they don't have singing, dancing or a combination thereof after 10 p.m. they could continue to use the space, they just can't do it after 10 p.m., that is where they need the nightclub license. Mi Pueblo is a restaurant and can continue to operate as a restaurant without the nightclub license. The license is just another layer on top. If music and dancing is integral to the business and the license is removed, whether they will be able to sustain themselves is a question I cannot answer. When Element started they were a restaurant and then they had some recreation and amusement elements and then the space changed over time. That is the other challenge that we have with some of the uses in downtown. During certain hours they are a certain use and like to have tables and chairs and be a restaurant and when that is not sufficient to pay the bills they add on

extra uses of that space where they can move the tables and now they have room for dancing and music. The mixture of uses gives the business a choice on whether they want to apply for the nightclub license or not.

Mr. Oliver asked what size would not be disruptive to the residences.

Kelly Beedle (940 SE Pioneer Way) said that her place was 1,440 square feet which is plenty of room and she asked how the City could control the size of a building that someone buys or rents.

Darnell Allen (7-West business owner) said that his business is 1,400 square feet and hold 117 people maximum.

Mr. Oliver said that it sound like controlling 100 to 150 people is controllable and that anything above that is difficult. Mr. Allen agreed.

Ms. Johnson-Pfeiffer said that she would not be opposed to having nightclubs listed as a specific land use item with a strict definition that would need to be fleshed out.

Mr. Fakkema thanked the citizens for their participation and noted how important their input is.

Mr. Kamak echoed the same and said that at the next meeting we will try and address some of the concerns and provide options to consider.

Mr. Wallin asked for size information on all of the current nightclubs for the next meeting.

Mr. Fakkema closed the public meeting.

SIGN CODE – Public Hearing

Mr. Spoo explained that the item before the Planning Commission tonight is simply a notification to Planning Commission that staff will be requesting that City Council renew the interim sign code for another six-month period. Staff will return to Planning Commission with the draft temporary sign code in May. The draft temporary sign code will include comments voiced at the March Planning Commission meeting.

Mr. Spoo recommended that Planning Commission hold a public hearing to take testimony regarding extending the interim sign code for an additional six-month period. Any public testimony will be included in information forwarded to the City Council. Another public hearing will be conducted before the City Council when extension of the interim sign code is considered.

Mr. Fakkema asked if the Planning Commission needed to recommend that the City Council extend the interim sign code. Mr. Spoo said that it isn't necessary because it the interim code has been in place for almost a year and they will only be extending it for another six months.

Mr. Fakkema opened the public hearing for public comment, seen none he closed the public hearing.

SHORELINE MASTER PROGRAM (SMP) – Public Meeting

Mr. Spoo explained that the SMP project has been an ongoing since 2010. Staff have provided several updates to the Planning Commission in pre-meetings and at the regular meeting since 2010. This introduction marks the formal start of discussions and consideration of the shoreline

master program update by Planning Commission. Mr. Spoo provided copies of the draft SMP to the Commissioners and noted that two members of the Planning Commission have served on the SMP Citizens Advisory Committee (Mr. Fakkema and Ms. Johnson-Pfeiffer).

Mr. Spoo provided background and history on the Shoreline Management Act as follows: In 1971, the State adopted the Shoreline Management Act (SMA) to address the “uncoordinated and piecemeal development” of the state’s shorelines. The legislature realized that most of the shoreline was under private ownership and was a unique and limited resource worth protecting. As such, legislation was needed to address development and activity along the shoreline. The three main objectives of the SMA were to (1) protect the shoreline environment, (2) promote and enhance public access, and (3) Give priority to uses which require a shoreline location. It is important to note that the SMA emphasizes all three of these objectives, not just protecting the shoreline environment. The SMA also required local jurisdictions (cities and counties) to adopt a shoreline master program to address these three objectives.

A shoreline master program (SMP) is a local plan for managing the shoreline which implements the SMA. SMPs contain goals, policies, and regulations for shoreline protection, use, and development. SMPs are unique because they serve as both a comprehensive plan and development regulations in the same document. SMPs are also unique amongst local regulations, because they require state approval. The City’s comprehensive plan and zoning codes are approved locally, but state approval is not required. This is a noteworthy distinction, because the State has the ultimate authority to approve an SMP for a jurisdiction in compliance with the SMA if the local jurisdiction fails to act or adopts an insufficient SMP. Shoreline planning is therefore, a joint City-state responsibility. The City writes, adopts and administers the SMP. Administering the SMP means that the City reviews developments for conformance with the plan and issues permits, or exemptions as necessary. The State, for its part, reviews the SMPs, provides funding in the form of a grant to update the SMP, and provides final approval. The state also has the final approval authority for certain permits such as conditional uses and variances.

The new state Guidelines and “no net loss.”

In the 1990s, there was a push to update the SMPs with science. When the SMPs were originally written in the early 1970s, they included very little science. Environmental interests wanted to see new Guidelines adopted which would prohibit any further impacts to the shoreline environment and its functions (hydrology, vegetation, habitat, etc.). Businesses and property owners took a slightly different view. Rather than prohibit impacts, they pointed out that the SMA was also about providing for economic use of the shoreline in the form of water-oriented and water-dependent uses (piers, ports, view restaurants, etc). If development of the shoreline with water-oriented/water-dependent uses was to be promoted, allowance for some impacts to the shoreline environment would be necessary. After years of negotiation and conflict, the interest groups settled on a compromise known as “no net loss” in 2003.

No net loss means that the existing quality of shoreline functions is maintained over time. It does not mean that there cannot be impacts to these functions, only that impacts should be avoided wherever possible, and mitigated when it is not possible to avoid impacts. There are some common misperceptions about what no net loss means for property owners. No net loss does not mean any of the following:

- No development is allowed in the shoreline,
- The government is going to take away shoreline property,

- The government is going to require that you relocate or discontinue existing uses within the shoreline

In addition, it is important to note that no net loss does not apply retroactively; existing uses can be kept and maintained as is, and even improved or expanded in some cases. Only new development and major redevelopment are subject to the no net loss standard. Having said that, there is no doubt that no net loss does place restrictions on the use of property within the shoreline.

In 2003, the state adopted new Guidelines for SMPs which incorporated the no net loss requirement. These new Guidelines also require that the City of Oak Harbor update its SMP by December 1, 2012. Hence, the City's current effort to update its SMP. The Guidelines are very specific as regards certain topics like shoreline stabilization, offering little leeway for the City to insert its local preference. For other topics, however, the Guidelines are much less specific and the City has options in how it meets the Guidelines. However, even on topics where the City has more flexibility, the City is still required to show that it is meeting no net loss of shoreline ecological functions.

The State has a standard scope of work and contract which guides updates to SMPs according to five distinct project phases described below. Oak Harbor is near the very end of Phase 3 and is beginning work on both Phases 4 and 5. Phases 1 – 5 are explained below:

- **Phase 1: Preliminary Assessment of Shoreline Jurisdiction and Public Participation Plan.** In this phase, the City determined where shoreline jurisdiction would apply and created a public participation plan.
- **Phase 2: Shoreline Inventory and Characterization.** The City's consultant created an "inventory and characterization report" which is an existing conditions document for the City's shoreline. This report documented the existing land uses and environmental characteristics within the City's shoreline and is important because it sets the baseline against which no net loss will be measured in the future. The City must maintain the level of environmental function in its shoreline described in this report.
- **Phase 3: Draft SMP Goals, Policies, Regulations; Preliminary Cumulative Impacts Analysis.** Project staff worked with the ad hoc "Shoreline Advisory Committee" to draft the SMP. There were a total of eight meetings of this committee. The consultant also prepared what is called a "cumulative impacts analysis" which measures whether the no net loss standard is being met by the draft SMP.
- **Phase 4: Restoration Planning; Revisit Phase 3 products.** In this phase, project staff will create a restoration plan which will identify opportunities where the shoreline can be restored. This is a non-binding plan.
- **Phase 5: Local Adoption.** Staff will work with Planning Commission and City Council to review, modify, and adopt the draft SMP.

The public process includes the following:

- Project information via City website
- Visioning workshop – July 20, 2011
- 8 meetings of stakeholder committee (August 2011– April 2012)
- Property owner meeting
 - Notices sent to property owners and put in newspaper/website/channel 10
- Planning Commission and City Council meetings

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The SMP is organized as follows:

- Chapter 1 – Introduction
- Chapter 2 – Environment Designations
- Chapter 3 – General Provisions
- Chapter 4 – Shoreline Use Provisions
- Chapter 5 – Shoreline Modifications
- Chapter 6 – Administration
- Chapter 7 – Definitions

Next month the Planning Commission will talk about Chapters 1 – 3.

Mr. Fakkema asked if the Reintjes brothers had any questions.

The Reintjes brothers asked what would costs would there be to property owners, if they were to put in a bulk head would they have to go through the State or County.

Mr. Spoo said a bulkhead would be approved through the City under this draft Shoreline Master Program. Bulkheads are exempt from getting a permit but you still have to demonstrate that you comply with the Shoreline Master Program. There will be new regulations affecting bulkheads. The State is taking the approach of prove to us that you need that bulkhead. So there is a process that you have to go through to prove that you need the bulkhead.

The Reintjes brothers asked if the City just oversees what transpires. Mr. Spoo said that the City implements the State law and there are areas where the City can exercise our local preference in drafting the Shoreline Master Program to make it fit to our particular community.

Mr. Fakkema and Mr. Oliver gave their copies of the draft plan to the Reintjes brothers.

Planning Commission had no further questions or comments.

ADJOURN: 9:25 p.m.