



PLANNING COMMISSION

AGENDA

July 28, 2015

ROLL CALL: WASINGER _____ FREEMAN _____
 PETERSON _____ SCHLECHT _____
 PICCONE _____ PIERCE _____
 WALKER-WYSE _____

1. *Page 4*
Approval of Minutes – June 23, 2015

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.

3. *Page 18*
SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM (TIP) – Public Hearing
The Planning Commission will conduct a public hearing to consider the updates to the Six-Year Transportation Improvement Program for the years 2016-2021. The Planning Commission will forward a recommendation to the City Council at the conclusion of the hearing.

4. *Page 34*
MEDICAL MARIJUANA CODE – Public Meeting
A moratorium is presently in place prohibiting the establishment of medical marijuana collective gardens and medical marijuana dispensaries in Oak Harbor. Recently adopted State law replaces these use categories and creates a new regulatory scheme. Staff will continue the discussion began last month and seek a formal recommendation to extend the existing moratorium.

5. *Page 42*
COMPREHENSIVE PLAN LAND USE AMENDMENT – Public Hearing
The Planning Commission will conduct a public hearing on request to change the land use designation for properties located on the south side of SW 3rd Avenue and north of the Oak Harbor Middle School (185 SW 3rd Avenue - Parcels R13203-488-4830, R13203-348-4940 and R13203-488-5060) from Low Density Residential to Medium Density Residential.

6. *Page 133*
TELECOMMUNICATION INFRASTRUCTURE – Public Meeting
The Federal Communications Commission (FCC) approved revised requirements for local review and approval for collocation, removal, and replacement of wireless facilities. Staff will present these requirements and how they will impact existing regulations included in Title 19 of the Oak Harbor Municipal Code.

7. *Page 163*
2016 COMPREHENSIVE PLAN UPDATE – Workshop
Staff will provide an update on the progress of the 2016 Comprehensive Plan Update. The major scope of the 2016 Comprehensive Plan Update includes updates to the Land Use Element, Housing Element and the Transportation Element. The Planning Commission will discuss and explore possible changes to the Future Land Use Map.

MINUTES

June 23, 2015

**PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
June 23, 2015**

ROLL CALL: Present: Greg Wasinger, Bruce Freeman, Ana Schlecht, Cecil Pierce and Jes Walker-Wyse

Absent: Sandi Peterson and Mike Piccone

Staff Present: Development Services Director, Steve Powers; Senior Planners, Cac Kamak and Dennis Lefevre; Associate Planner Ray Lindenburg

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

MINUTES: MS. SCHLECHT MOVED, MS. WALKER-WYSE SECONDED, MOTION CARRIED TO APPROVE THE MAY 26, 2015 MINUTES AS PRESENTED.

PUBLIC COMMENT

None.

HOMELESS ENCAMPMENT CODE AMENDMENT – Public Hearing

Mr. Lefevre reviewed the background, formulation and review process of the homeless encampment regulations. Mr. Lefevre noted that the City Council recommended that the radius around a public transit stop should be $\frac{3}{4}$ mile versus $\frac{1}{2}$ mile.

Planning Commission Discussion

Planning Commission asked if there was a reason for the $\frac{1}{2}$ mile radius around a public transit stop. Mr. Lefevre said that the discussion with the City Council related to the paratransit $\frac{3}{4}$ radius through the ADA Program.

Chairman Wasinger opened the public hearing.

Cynthia Hart (North Whidbey Homeless Project) stated that she had reviewed the draft and her only concern was the population that they are hoping to help have criminal backgrounds and will not pass a background check which means that they are still on the streets. She stated that she didn't have an answer at this point but thought that this should be addressed.

Planning Commissioners discussed Ms. Hart's comment and noted that the background checks were specifically to cull out sex offenders and those who have warrants and not all criminal backgrounds.

Jill Johnson (Island County Commissioner) asked for clarification about the $\frac{3}{4}$ mile radius and noted that Island County Public Health is the health department for all of Island County including the City of Oak Harbor. She anticipated that if there are homeless encampments there would be future conversations about enforcement and how it relates to public health.

Planning Commissioners asked if there were any problems with enforcement of public health standards in other cities. Mr. Powers stated that the city lacks the authority to bind another agency (Island County Public Health Department) and the homeless encampment will be required to demonstrate consistency with the appropriate public health standards. At this point we will monitor how the code works and if changes are needed we will establish different standards.

Nexis Alinsky (Food Forest) spoke in favor of the homeless encampment code.

Planning Commissioners asked if there was a need to include estimated number of homeless in the beginning of the ordinance since that number fluctuates. Mr. Powers said that the number was intended to demonstrate the need.

Chairman Wasinger closed the public hearing.

MOTION: MR. PIERCE MOVED, MR. FREEMAN SECONDED, MOTION CARRIED TO RECOMMEND THAT THE CITY COUNCIL APPROVE ORDINANCE 1712 AS WRITTEN.

ZONING CODE AMENDMENT – Public Hearing

Mr. Powers reported that this amendment was recommended by the Washington Cities Insurance Authority (WCIA) to update the definitions of ‘child day care center’ and ‘family day care provider’ to be consistent with current state law. They also recommended that the definition of ‘family’ be updated and a ‘reasonable accommodation’ section to be added to the code.

Chairman Wasinger opened the public hearing for public comment. Seeing none, Chairman Wasinger closed the public hearing.

Planning Commissioners asked when the ordinance was originally established with the original definitions and where the new language comes from. Mr. Powers said the definition of “family” has been in the code since he has been with the city (17 years). The “child day care center” was updated about 13 or 14 years ago to change the number of kids from 6 to 8 and then to 12. Mr. Powers said the definitions came straight out of the Washington Administrative Code (WAC) and the “family” definition was provided by the City Attorney. The simplest most straight-forward language was chosen for reasonable accommodation.

MOTION: MS. WALKER-WYSE MOVED, MS. SCHLECHT SECONDED, MOTION CARRIED TO RECOMMEND THAT THE CITY COUNCIL APPROVE ORDINANCE 1739 AS WRITTEN.

MEDICAL MARIJUANA CODE – Public Meeting

Mr. Lefevre displayed a PowerPoint presentation (Attachment 1) and discussed the state and federal medical marijuana background, current moratorium ordinances and recreational marijuana ordinance that the city has adopted and the land use implications of the code. Mr. displayed the following table to illustrate the land use implications.

Legislation	Recreational	Medical
I-502 (2012)	1,000 feet from public places	Does not apply
19.22, OHMC (2014)	1,000 feet from public places; only in PIP & I zones (production & process); C-4 & I zones (retailers). Retailers must be 1,000 feet from producers & processors.	Does not apply
2SSB 5052 (2015)	Does not apply	1,000 feet from public places; Cooperatives must be 1 mile from licensed retailer.

Mr. Lefevre also displayed maps showing the city and what the 1,000 foot buffer looks like when applied.

Mr. Lefevre asked the Planning Commission to discuss what restriction would be appropriate for medical marijuana producers, processors and retailers and what can/should we do with cooperatives. Mr. Lefevre also offered the following options:

1. Separate medical marijuana chapter in OHMC;
2. Combine recreational & medical regs. In OHMC;
3. Continue moratorium & monitor state/other jurisdictions

Planning Commission Discussion

The Planning Commissioners asked if there were any medical marijuana facilities in the city. Mr. Lefevre indicated that there were no medical marijuana facilities in the city.

There was some discussion about the recreational facilities in the city and questions about enforcement/inspections for cooperatives.

Planning Commission asked whether any jurisdictions that said “no” to medical marijuana. Mr. Lefevre said that he hadn’t found any. There was a question about whether there was a mandate to allow medical marijuana. Mr. Powers indicated that the courts have held that even though there is legislation at the state level that would allow recreational marijuana to be established in your community, local communities have the ability to make that local choice and say “no” if they choose. Now people are wondering if that same parallel will exist for the medical marijuana regulation.

Planning Commissioners asked if extending the moratorium would have any effect on whether people register and form cooperatives within the city limits. Mr. Lefevre explained that cooperatives won’t come into being until July 1, 2016. Mr. Powers said the benefit of the state establishing an effective date for the cooperatives was to give us time to make the transition. The reason we would extend the moratorium on collective gardens is to see if there is guidance coming from the organizations that we look to such as the Association of Washington Cities (AWC) and the Municipal Research and Services Center (MRSC).

Planning Commissioners asked what staffs thoughts are about combining recreational and medical regulations in the code. Mr. Lefever indicated there were a lot of parallels and he would be in favor of combining the two. Mr. Powers also stated he was leaning toward combining the two.

Planning Commissioners indicated that they would like more information on cooperatives and see some support from the community. Mr. Power indicated that they could do some outreach. Planning Commissioners noted concern about the “moving target” created by the state actions. Planning Commissioners asked if there were any applications. Mr. Powers said there were none.

Planning Commissioners indicated that they would like more information and would likely recommend an extension of the moratorium.

2016 COMPREHENSIVE PLAN UPDATE – Public Meeting

Mr. Kamak displayed a PowerPoint presentation (Attachment 2) which presented a review of the Land Use Element and items discussed at the June 17th Planning Commission workshop which

included a reviewed each goal of the Land Use Element, discussion of its intent, initial thoughts, potential policies to further the particular goal and compared the element against the existing policies. The Planning Commission found that the goals seem repetitive, intent not clearly captured in some statements, goals and policies seem to have a gap, needs to be restructured and there was also discuss as to whether some of the goals apply City-wide versus area specific.

Mr. Kamak indicated that the next steps would be to address Growth Management Act (GMA) requirements, make a strong connection to the Vision, categorize the goals, ensure that policies support existing code, bridge gap between existing codes and expecting goal and that policies promote the goal.

Planning Commissioners commented that the workshop was helpful and that another workshop was appropriate.

ADJOURN: 8:52 p.m.

Minutes submitted by: Katherine Gifford

DRAFT

Medical Marijuana Regulations

Code Amendment



Planning Commission

6/23/2015

Medical Marijuana

Background

State & Federal positioning

Current Ordinances

Moratorium & Chapter 19.22, OHMC

Existing Land Use Implications

Discussion/Direction



Planning Commission

6/23/2015

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Medical Marijuana

Background:

- 1998 – Medical Use of Marijuana Act (I-692 = 69.51A RCW)
permitted med. use of mari. by qualifying patients
- 2011 – Amends MUMA to MUCA (E2SSB 5073)
authorized comp regulatory scheme, database, collective gardens, local regulation
- Federal response to E2SSB 5073
WA state employees (DOH) not immune
Gregoire veto of key sections
- 2012 – I-502 legalized recreational use of marijuana
regulatory system (Liquor Control Board), producer/processor/retailer licenses, operational standards, conformance w/distance & local regs. Required
- Federal response – Cole Memo (2013)



Medical Marijuana

Background:

- 2015 – Cannabis Patient Protection Act (2ESSB 5052);
 - Changes Liquor Control Board to Liquor Cannabis Board;
 - Creates similar regulatory framework (recreational);
 - Database (qualifying patient protection);
 - Recreational marijuana (P,P & R's) may be endorsed;
 - Collective gardens repealed (7/1/16);
 - Cooperatives permitted (7/1/16)



Medical Marijuana

Current Oak Harbor Ordinances:

- Ordinance 1685 – Created Chapter 19.22 OHMC (Marijuana Related Uses) Addresses recreational use only.
- Ordinance 1666 – 6-month moratorium (med. mari. dispensaries/collective gardens (to 3/2014);
- Ordinance 1686 – Extends moratorium 6 months (to 9/2014);
- Ordinance 1692 – Extends moratorium 12-months (to 9/2015).



Medical Marijuana

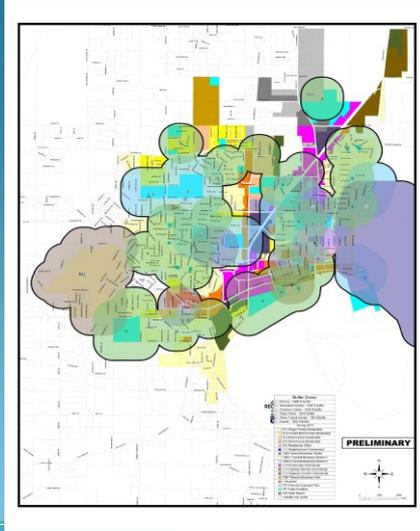
Existing Land Use Implications:

Legislation	Recreational	Medical
I-502 (2012)	1,000 feet from public places	Does not apply
19.22, OHMC (2014)	1,000 feet from public places; only in PIP & I zones (production & process); C-4 & I zones (retailers). Retailers must be 1,000 feet from producers & processors.	Does not apply
2SSB 5052 (2015)	Does not apply	1,000 feet from public places; Cooperatives must be 1 mile from licensed retailer.



Medical Marijuana

Map 1



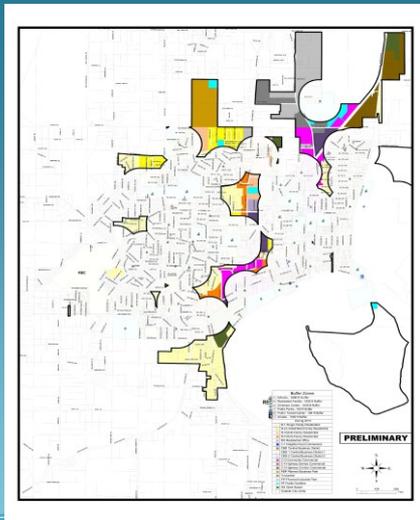
Planning Commission

6/23/2015

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Medical Marijuana

Map 2



Planning Commission

6/23/2015

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Medical Marijuana

Discussion:

- What restrictions would be appropriate for medical marijuana producers, processors, & retailers?
- What can/should we do with cooperatives?
- Options:
 - Separate medical marijuana chapter in OHMC;
 - Combine recreational & medical regs. In OHMC;
 - Continue moratorium & monitor state/other jurisdictions



2016 Comprehensive Plan Update

Land Use Element



Planning Commission
7/21/2015

Oak Harbor's Comprehensive Plan

- Land Use Element
- Parks, Recreation and Open Space Element
- Housing Element
- Utilities Element
- Transportation Element
- Economic Development
- Urban Growth Areas
- Environment Element
- Capital Facilities
- Government Services Element
- Community Coordination



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A typical Land Use Element

- Establishes the future growth of the City through population projections and demographic needs
- Systematic assessment of land potential – need for various districts and the basis for Land Use designations and zoning regulations
- Goals and Policies to regulate the physical development of land, neighborhoods and planning areas



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A typical Land Use Element

- The [Canadian Institute of Planners](#) offers a definition that land-use planning means the scientific, aesthetic, and orderly disposition of land, resources, facilities and services with a view to securing the physical, economic and social efficiency, health and well-being of urban and rural communities
- The [American Planning Association](#) states that the goal of land-use planning is to further the welfare of people and their communities by creating convenient, equitable, healthful, efficient, and attractive environments for present and future generations



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Land Use Element

A quick review of the existing element



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Existing Structure

- Introduction
- Relationship to other Elements
- Distribution, Location and Extent of Land Uses
- Existing Conditions
 - Land Use Mix
 - Residential Uses
 - Commercial Uses
 - Industrial Uses
 - Public/Institutional uses
 - Military Uses



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Existing Structure

- Economic and Demographic Projection
 - Population
 - Existing and projected employment
 - Housing need projection
- Future
- Land Use needs
 - Land Uses – All existing land use categories and special planning areas



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Existing Structure

- Goals and Policies
 - CWPPP
 - JPA
 - Potential
 - City of Oak Harbor Goals and Policies
 - Community Identity
 - Residential Development
 - Industrial Development
 - Commercial Development
 - Public Facilities
 - Parks and Recreation
 - Essential Public Facilities
 - Property Rights
 - Built Environment



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Existing Element

- + Good description of the trend
- + Snapshot statistics on population and employment
- + Delineated 6 neighborhoods
- + Land use comparisons to similar communities
- + Description of general land uses
- + Some projections
- + Description of land use categories
- + Goals are general

- Lack of overall direction
- No connecting statements to the vision
- No statement of findings with existing conditions
- Neighborhoods did not serve an extended function – no goals or defining direction
- Not clear why general land use categories and Future Land Use map categories
- Not clear how the broad categories for land use goals were selected
- Intent of the goals do not seem clear
- Policies don't seem to be furthering the goal as stated



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June 17, 2015 Workshop

- Reviewed each goal of the Land Use Element
- Discussed its intent
- Discussed initial thoughts
- Potential policies to further the particular goal
- Compared it against the existing policies



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June 17, 2015 Workshop

- Example – Goal 1 - To respect the "small town" heritage of Oak Harbor while enhancing the unique character of its neighborhoods and districts with development that is fitting with the City's future as a regional center.

<p>Staff:</p> <ul style="list-style-type: none"> • 3 diff statements • Small town? DT • Regional center – retail, services <ul style="list-style-type: none"> • Transportation • Unique Character - DG 	<p>PC:</p> <ul style="list-style-type: none"> • Dutch, Windmill, tulips • Marine/Nautical • Applies to different areas • Seems conflicting • Design guidelines 	<p>Current Plan:</p> <ul style="list-style-type: none"> • Pedestrian character • Streetscape • Less auto oriented • DG – pedestrian related • Sign standards • Revitalize DT
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June 17, 2015 Workshop

- Example – Goal 2 - To retain the character and visual identity of the Oak Harbor area.

<p>Staff:</p> <ul style="list-style-type: none"> • Connected to Goal 1 • Backdrop views, windmill • Windjammer Park • Mix of arch types • Waterfront Trail • Landmarks 	<p>PC:</p> <ul style="list-style-type: none"> • Dutch, Windmill, tulips • Same as Goal 1 • Marine, nautical • Churches and homes • Views • Jets, displays, Navy 	<p>Current Plan:</p> <ul style="list-style-type: none"> • PRDs • View Corridors • Landscape ordinance
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June 17, 2015 Workshop

- Findings
 - Goals seem repetitive
 - Intent not clearly captured in some statements
 - Goals and policies seem to have a gap
 - Needs to be restructured
 - City-wide vs area specific



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2016 Update – next steps

- Guidelines for reorganization
 - Address the requirements of the GMA
 - Establish a strong connection to the Vision
 - Categorization of the goals
 - City-wide vs area specific
 - Strong connections to the Vision statement
 - Simplify the language and make clear statements
 - Organize the goals to further the Vision
 - Relevant to the Element
 - Avoid redundancy
 - Policies
 - Support existing code
 - Bridge gap between existing codes and expecting goal
 - Policies to promote the goal.



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SIX YEAR
TRANSPORTATION
IMPROVEMENT
PROGRAM
2016-2021

Public Hearing

**City of Oak Harbor
Planning Commission**

Date: July 28, 2015
Subject: Six-Year Transportation
Improvement Program

FROM: Cathy Rosen, Public Works Director
Joe Stowell, City Engineer

PURPOSE:

The Planning Commission is requested to hold a public hearing for the Oak Harbor 2016-2021 Six-Year Transportation Improvement Program (TIP) and make a recommendation to the City Council for consideration and adoption.

AUTHORITY:

The City is authorized and required to adopt a Six-Year Transportation Improvement Program and forward the program to the State of Washington in accordance with RCW 35.77.010.

DISCUSSION

The City is required by State law to submit an approved Six-Year Transportation Improvement Program (TIP). The primary purpose of the TIP is to facilitate use of Federal transportation funds awarded to the City. Projects that have Federal funding must appear in the Six-Year TIP at the local and State level so that the City can obligate and eventually use the Federal funds to reimburse the City for specific projects.

The projects listed on the TIP are coordinated with those listed in the Transportation Element of the Comprehensive Plan. Coordinating projects among the Transportation Comprehensive Plan, the Six-Year TIP, and the Capital Facilities Plan facilitates our collaboration with other agencies and work with utility companies, and our communication with the public on planned transportation projects. It also helps the City remain focused on a manageable list of transportation projects.

The Six-Year TIP form includes a number of codes and symbols used in the statewide management of the regional TIP documents. A copy of the TIP code key is attached. A symbol in the status column of "S" means funding is secured while a symbol of "P" indicates the project is not currently funded. The form of the Six-Year TIP includes a priority number associated with each project. Please note that the priority numbering in the TIP is not intended to supersede or be superimposed into the citywide effort of overall capital project prioritization.

The following projects are included in the TIP:

1. SW Heller Street Improvements – Swantown to Whidbey
2. Whidbey Avenue Reconstruction – Heller to Regatta

3. Midway / NE 7th – Intersection Signalization
4. Bayshore Drive Extension – Beeksma to City Beach
5. SR-20 Improvements – Roundabouts
6. NW Heller Street Overlay – Whidbey to Crosby

Five previously listed projects have been dropped from the TIP. The Transportation Element Update was removed from the project list as the Federal Highway Administration determined that local transportation planning is not eligible for federal Surface Transportation Program funding. The Whidbey Avenue Pedestrian Crossing and Waterfront Trail Repair projects are removed from the TIP because federal funds have been obligated for both projects. The Eagle Vista Extension was dropped because there is no longer a timely public interest in this street segment. The SE 4th Avenue Reconstruction project is not eligible for federal transportation funds.

The Bayshore Drive Extension has been added to the TIP this year. It is classified as collector street and is eligible for federal funding and the development of the Oak Harbor Clean Water Facility may result in completion of Bayshore Drive between City Beach Street and Beeksma Drive.

As was previously noted, the City is required by State law to submit an approved Six-Year TIP. This submittal process is accomplished in conjunction with the Regional Transportation Planning Organization (RTPO). Once approved by the Council, the City's TIP is submitted to the RTPO. In turn, the RTPO submits a regional TIP to the State each year. The State then prepares a statewide TIP in January of each year. The incorporation of the City's projects into this statewide TIP is what enables Oak Harbor to spend Federal funds on local transportation projects.

RECOMMENDED ACTION:

1. Conduct a public hearing.
2. Recommend that the City Council adopt the 2016-2021 Six-Year Transportation Improvement Program.

ATTACHMENTS:

- ✓ Six-Year Transportation Improvement Program (TIP)
- ✓ TIP code key from WSDOT
- ✓ Map of improvement locations

Six Year Transportation Improvement Program From 2016 to 2021

Agency: Oak Harbor

County: Island

MPO/RTPO: Skagit Island
RTPO

N Inside

Y Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
16	1	SW Heller Street Improvements SW Heller Street SW Swantown Ave to W Whidbey Ave R/W Acq., pave, curb, gutter, sidewalk, utilities, transit	WA-05970	06/23/15	07/07/15		15-	04	C G O P S T W	0.780	CE	Yes

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	PE	2018		0		0	1,358,000	1,358,000
P	RW	2019		0		0	582,000	582,000
P	CN	2020		0		0	7,760,000	7,760,000
Totals				0		0	9,700,000	9,700,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
PE	0	0	0	700,000	658,000
RW	0	0	0	0	582,000
CN	0	0	0	0	7,760,000
Totals	0	0	0	700,000	9,000,000

Six Year Transportation Improvement Program From 2016 to 2021

Agency: Oak Harbor

County: Island

MPO/RTPO: Skagit Island
RTPO

N Inside

Y Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
16	2	Whidbey Avenue Reconstruction Whidbey Avenue Heller St to Regatta Dr Sidewalk, curb & gutter, drainage, transit facilities, non-motorized	WA-05971	06/23/15	07/07/15		15-	03	C G P T W	1.800	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	PE	2018		0		0	1,428,000	1,428,000
P	RW	2019		0		0	204,000	204,000
P	CN	2020		0		0	8,568,000	8,568,000
Totals				0		0	10,200,000	10,200,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
PE	0	1,000,000	428,000	0	0
RW	0	0	204,000	0	0
CN	0	0	0	8,568,000	0
Totals	0	1,000,000	632,000	8,568,000	0

Six Year Transportation Improvement Program From 2016 to 2021

Agency: Oak Harbor

County: Island

MPO/RTPO: Skagit Island
RTPO

N Inside

Y Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
16	3	Midway Blvd / NE 7th Ave Intersection Signalization NE Midway Blvd to Traffic Signal	WA-05972	06/23/15	07/07/15		15-	03	C G O P S T W		CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	PE	2017		0		0	170,153	170,153
P	RW	2018		0		0	113,435	113,435
P	CN	2019		0		0	850,762	850,762
Totals				0		0	1,134,350	1,134,350

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
PE	0	170,153	0	0	0
RW	0	0	113,435	0	0
CN	0	0	0	850,762	0
Totals	0	170,153	113,435	850,762	0

Six Year Transportation Improvement Program From 2016 to 2021

Agency: Oak Harbor

County: Island

MPO/RTPO: Skagit Island
RTPO

N Inside

Y Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
17	4	Bayshore Drive Extension SE Bayshore Drive SW Beeksma Drive to SE City Beach Street Street Extension	WA-08159	07/28/15	08/05/15			01	C G P T W	0.270		Yes

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	PE	2017		0		0	490,000	490,000
P	RW	2018		0		0	1,000,000	1,000,000
P	CN	2019	STP	1,000,000		0	1,010,000	2,010,000
Totals				1,000,000		0	2,500,000	3,500,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
PE	0	290,000	200,000	0	0
RW	0	0	1,000,000	0	0
CN	0	0	0	2,010,000	0
Totals	0	290,000	1,200,000	2,010,000	0

Six Year Transportation Improvement Program From 2016 to 2021

Agency: Oak Harbor

County: Island

MPO/RTPO: Skagit Island
RTPO

N Inside

Y Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	R/W Required
14	5	SR-20 Improvement SR-20 SE Barrington Dr to SW Swantown Ave R/W Acq., intersection improvements & channelization, widening, sidewalk, curb & gutter, retaining walls, & landscaping.	WA-05976	06/05/15	07/07/15		15-	03	C G O P S T W	0.690	CE	Yes

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
P	PE	2020		0	WSDOT	3,572,000	268,000	3,840,000
P	RW	2021		0	WSDOT	5,952,000	448,000	6,400,000
P	CN	2021		0	WSDOT	20,236,800	1,523,200	21,760,000
Totals				0		29,760,800	2,239,200	32,000,000

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
PE	0	0	0	0	3,840,000
RW	0	0	0	0	6,400,000
CN	0	0	0	0	21,760,000
Totals	0	0	0	0	32,000,000

Six Year Transportation Improvement Program From 2016 to 2021

Agency: Oak Harbor

County: Island

MPO/RTPO: Skagit Island
RTPO

N Inside

Y Outside

Functional Class	Priority Number	A. PIN/Project No. C. Project Title D. Road Name or Number E. Begin & End Termini F. Project Description	B. STIP ID G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
16	6	NW Heller Street Overlay NW Heller St. W. Whidbey Ave. to NW Crosby Ave. Overlay surface for maintenance; replace curb ramps; striping.	WA-07425	06/23/15	07/07/15		15-	06	C G P S T W	0.600	CE	No

Funding								
Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
S	PE	2016	STP(R)	31,192		0	4,868	36,060
S	CN	2017	STP(R)	280,727		0	43,813	324,540
Totals				311,919		0	48,681	360,600

Expenditure Schedule					
Phase	1st	2nd	3rd	4th	5th & 6th
PE	0	0	36,060	0	0
CN	0	0	0	324,540	0
Totals	0	0	36,060	324,540	0

	Federal Funds	State Funds	Local Funds	Total Funds
Grand Totals for Oak Harbor	1,311,919	29,760,800	25,822,231	56,894,950

APPENDIX A

IMPROVEMENT TYPE CODES

- 01 – New Construction Roadway
- 03 – Reconstruction, Added Capacity
- 04 – Reconstruction, No Added Capacity
- 05 – 4R Maintenance Resurfacing
- 06 – 4R Maintenance – Restoration & Rehabilitation
- 07 – 4R Maintenance – Relocation
- 08 – Bridge, New Construction
- 10 – Bridge Replacement, Added Capacity
- 11 – Bridge Replacement, No Added Capacity
- 13 – Bridge Rehabilitation, Added Capacity
- 14 – Bridge Rehabilitation, No Added Capacity
- 15 – Preliminary Engineering
- 16 – Right of Way
- 17 – Construction Engineering
- 18 – Planning
- 19 – Research
- 20 – Environmental Only
- 21 – Safety
- 22 – Rail/Highway Crossing
- 23 – Transit
- 24 – Traffic Management/Engineering – HOV

APPENDIX A (continued)

IMPROVEMENT TYPE CODES

- 25 – Vehicle Weight Enforcement Program
- 26 – Ferry Boats
- 27 – Administration
- 28 – Facilities for Pedestrians and Bicycles
- 29 – Acquisition of Scenic Easements and Scenic or Historic Sites
- 30 – Scenic or Historic Highway Programs
- 31 – Landscaping and Other Scenic Beautification
- 32 – Historic Preservation
- 33 – Rehab & Operation of Historic Transp. Buildings, Structures, Facilities
- 34 – Preservation of Abandoned Railway Corridors
- 35 – Control and Removal of Outdoor Advertising
- 36 – Archaeological Planning & Research
- 37 – Mitigation of Water Pollution due to Highway Runoff
- 38 – Safety and Education for Pedestrians/Bicyclists
- 39 – Establishment of Transportation Museums
- 40 – Special Bridge
- 41 – Youth Conservation Service
- 42 – Training
- 43 – Utilities
- 44 – Other
- 45 – Debt Service
- 47 – Systematic Preventive Maintenance

APPENDIX B

FEDERAL FUNCTIONAL CLASSIFICATIONS

No Functional Classification

< 5,000 Population

Interstate Rural
Principal Arterial Rural
Minor Arterial Rural
Major Collector Rural
Minor Collector Rural
Local Access Rural

> 5,000 Population

Interstate Urban
Freeways & Expressways Urban
Other Principal Arterials Urban
Minor Arterial Urban
Collector Urban
Local Access Urban

APPENDIX C

FEDERAL FUND CODES

5307	FTA Urbanized Area Formula Program
5309(Bus)	FTA Bus and Bus Facilities
5309(FG)	FTA Fixed Guideway Modernization
5309(NS)	FTA New Starts
5310	FTA Elderly Persons and Persons with Disabilities
5311	FTA Rural Area Formula Grants
5316	FTA Job Access & Reverse Commute Program (JARC)
5317	FTA New Freedom Program
FTA Discretionary	Discretionary Programs such as Alternatives Analysis (5339) and TIGGER Program
BIA	Bureau of Indian Affairs
BR	Bridge Replacement/Rehabilitation Program
CBI	Coordinated Border Infrastructure
CDBG	Community Development Block Grant (Dept. of Commerce)
CMAQ	Congestion Mitigation and Air Quality
DEMO	Demonstration Projects (High Priority, Sect. 112, 115, 117, 125 and 129)
Discretionary – FBD	Ferry Boat Discretionary
Discretionary – IMD	Interstate Maintenance Discretionary
Discretionary – ITS	intelligent Transportation Systems
Discretionary – PLH	Public Lands Highways (Federal Lands)
Discretionary – SB	Scenic Byways
Discretionary – STP	Surface Transportation Priorities

APPENDIX C (continued)

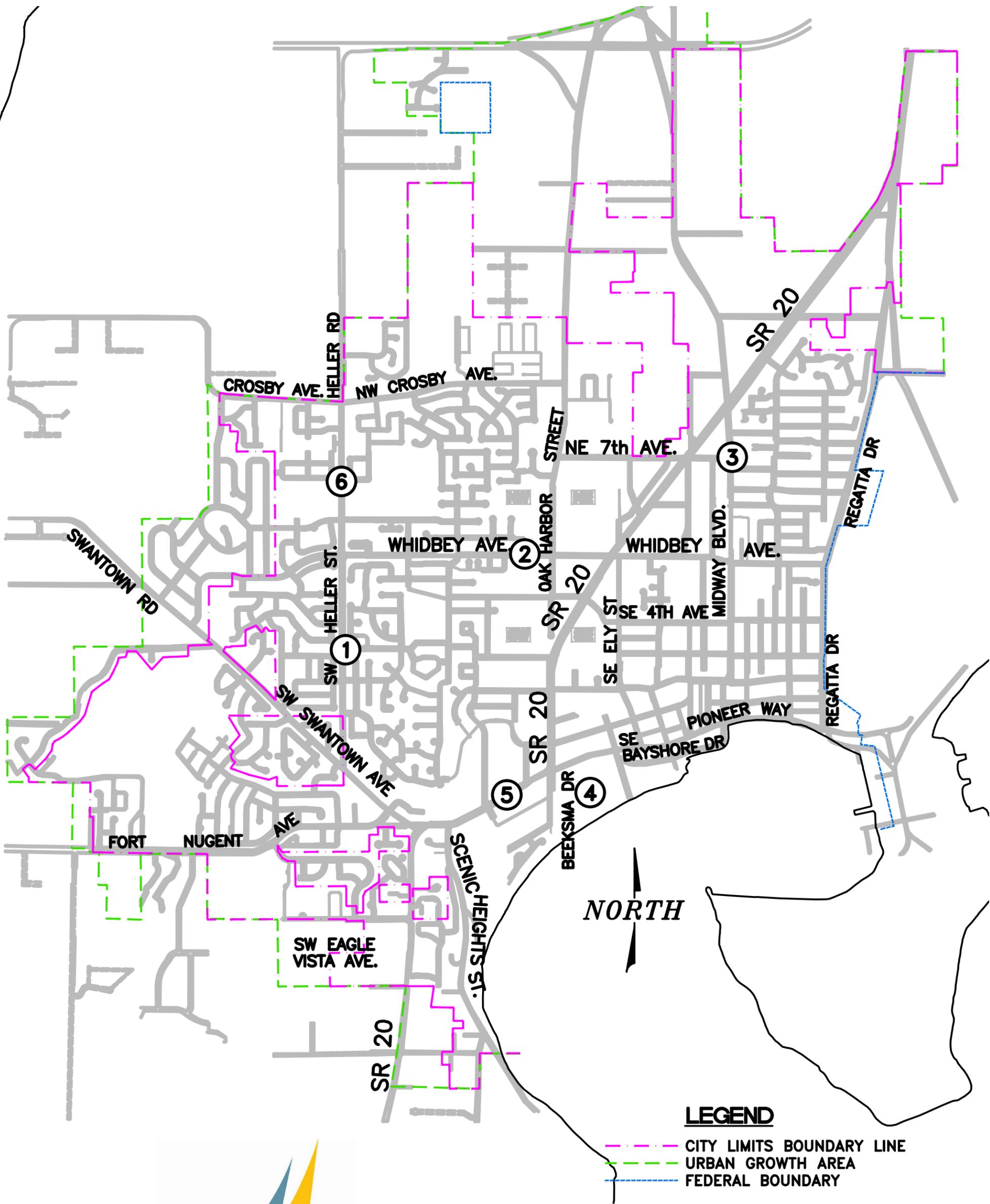
FEDERAL FUND CODES

Discretionary – TCSP	Transportation, Community & System Preservation Program
DOD	Department of Defense
FMSIB	Freight Mobility Strategic Investment Board
IM	Interstate Maintenance
IRR	Indian Reservation Roads
NHS	National Highway System
SRTS	Safe Routes to Schools
STP	Surface Transportation Program (WSDOT Use Only)
STP(E)	Surface Trans. Program - Enhancements
STP(L)	Surface Trans. Program – Legislative Earmarks
STP(S)	Surface Trans. Program – Safety (Includes Highway Safety Improvement Program, Hazard Elimination, Railway/Highway Crossing Program and 2010-15 County Road Safety Program)
STP(R)	Surface Trans. Program – Rural Regionally Selected
STP(U)	Surface Trans. Program – Urban Regionally Selected

APPENDIX C (continued)

STATE FUND CODES

CRAB	County Road Administration Board
FMSIB	Freight Mobility Strategic Investment Board
PWTF	Public Works Trust Fund
SRTS	Safe Routes to Schools
TIB	Transportation Improvement Board
TPP	Transportation Partnerships Program
WSDOT	WSDOT funds
OTHER	Any other state funds not listed a



SIX YEAR TRANSPORTATION IMPROVEMENT PLAN 2016 - 2021

MEDICAL
MARIJUANA
CODE

Public Meeting

City of Oak Harbor Planning Commission Report

Date: July 28, 2015
Subject: 2SSB 5052 – Medical Marijuana

FROM: Dennis Lefevre, AICP, Senior Planner

PURPOSE

This report is a follow-up to the June 23, 2015 discussion regarding the creation of a code amendment in the Oak Harbor Municipal Code (OHMC) addressing impacts of the recently passed Cannabis Patient Protection Act (2SSB 5052).

BACKGROUND

The City of Oak Harbor adopted Ordinance 1685 (February 2014) creating Chapter 19.22, OHMC, regulating the potential siting of recreational marijuana production, processing and retail facilities legalized by the passage of I-502 in November 2012.

With the knowledge that the Washington State Legislature was working towards legislation that could potentially align the medical marijuana regulations with those of recreational marijuana, the City Council adopted Ordinance No. 1666 (September 3, 2013) instituting a six-month moratorium on the establishment, licensing, and permitting of medical marijuana dispensaries and collective gardens.

Since no Legislative action occurred within the six-month time period established under Ordinance No. 1666, the City Council adopted Ordinance No. 1686 extending the moratorium an additional six months, to September 2, 2014. The State Legislature, again, failed to pass legislation changing the medical marijuana laws within the extended six-month time frame prompting the City Council to adopt Ordinance No. 1692. This Ordinance extended the moratorium an additional twelve months to September 2, 2015 and established a work plan to develop a medical marijuana ordinance.

In April 2015, Governor Inslee signed the Cannabis Patient Protection Act (2SSB 5052) which overhauls regulation of the medical marijuana industry. This legislation brings medical marijuana into the same regulatory scheme that the Liquor Cannabis Board (formerly Liquor Control Board) had established for recreational marijuana under I-502.

DISCUSSION

At the June 23, 2015 Planning Commission meeting, staff presented the background of the marijuana industry in Washington State, existing regulatory conditions for recreational marijuana, and framework for medical marijuana regulations established under 2SSB 5052.

Following substantive discussion, there was general consensus that, due to uncertainty of several sections of 2SSB 5052 and the very short timeframe to prepare a code amendment locally regulating medical marijuana, an extension to the existing moratorium would be in the best interest of the city. The Planning Commission further indicated that such an extension would

provide an opportunity to gather additional information, monitor state progress and 2SSB 5052 refinements, and engage in public outreach.

Staff supports the Planning Commission position. While the bill provides a needed regulatory framework for the medical marijuana industry, it contains areas of uncertainty and unanswered questions. It is staff's belief that legislation as widespread as this will experience areas of refinement and clarification. Other Washington jurisdictions will share similar concerns in the lack of regulatory control and enforcement mechanisms. Time will be needed to monitor the aforementioned concerns to ensure that the proposed code amendment will reflect the most recent legislative and judicial decisions.

RECOMMENDATION

Staff's recommendation is to forward a recommendation to the City Council to extend the existing medical marijuana moratorium extended under Ordinance No. 1692 an additional year to September 1, 2016.

ATTACHMENTS

Attachment 1 – Proposed Ordinance ____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, EXTENDING FOR TWELVE MONTHS THE MORATORIUM UPON MEDICAL MARIJUANA DISPENSARIES AND COLLECTIVE GARDENS AS ESTABLISHED BY ORDINANCE NO. 1666 AND AMENDED BY ORDINANCE NOS. 1686 AND 1692, ADOPTING FINDINGS OF FACT IN SUPPORT OF THE EXTENSION, ADOPTING A REVISED WORKPLAN, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative Measure No. 692 (I-692), approved by the voters of Washington State on November 30, 1998, and now codified as chapter 69.51A RCW, created an affirmative defense for “qualifying patients” to the charge of possession of marijuana (cannabis); and,

WHEREAS, the intent of I-692 was that qualifying “patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law” (RCW 69.51A.005), but that nothing in the law “shall be construed to superseded Washington state law prohibiting the acquisition, possession, manufacture, sale, or use of marijuana for non-medical purposes” (RCW 69.51A.020); and,

WHEREAS, the Washington State Legislature passed E2SSB 5073 in 2011; and,

WHEREAS, on April 29, 2011, former Governor Christine Gregoire vetoed all of the provisions of E2SSB 5073 relevant to medical marijuana dispensaries but left the provisions relating to cultivation of marijuana for medical use by qualified patients individually and in collective gardens; and,

WHEREAS, RCW 69.51A.085 authorizes qualifying patients “to create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use,”; and,

WHEREAS, RCW 69.51A.140 authorizes cities to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction and that nothing in chapter 181, Laws of 2011 is intended to limit the authority of cities to impose zoning requirements or other conditions upon licensed dispensers, so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction; and,

WHEREAS, Initiative Measure No. 502 (I-502), approved by the voters of Washington state on November 6, 2012, calls for the establishment of a regulatory system licensing producers, processors, and retailers of recreational marijuana for adults 21 years of age and older, legalizes the possession and private recreational use of marijuana, and requires the Washington State

Liquor and Cannabis Board (formerly Liquor Control Board) to adopt procedures and criteria for issuing licenses to produce, process, and sell marijuana; and,

WHEREAS, the City of Oak Harbor adopted Ordinance No. 1666 on September 3, 2013 imposing a six-month moratorium on the establishment of medical marijuana dispensaries and collective gardens because of the potential impact on the public health, safety, and welfare; and,

WHEREAS, the City Council conducted a public hearing on October 1, 2013, as required by Ordinance No. 1666, to take public testimony regarding the establishment of the moratorium; and,

WHEREAS, the City has received no evidence that there is insufficient access to medical marijuana; and,

WHEREAS, the Washington State Attorney General issued an advisory opinion in January 2014, that states municipalities can prohibit state-licensed marijuana businesses within a city's boundaries or impose zoning and other land use regulations pertaining to such businesses; and,

WHEREAS, legislation was introduced in the Washington State Legislature's 2014 session concerning recreational, commercial, and medical marijuana, which would have merged medical marijuana into the state-licensed recreational market; and,

WHEREAS, in light of the potential for new legislation related to medical marijuana and in accordance with RCW 36.70A.390, Ordinance No. 1666, adopted September 3, 2013, was extended by the City Council (Ordinance No. 1686) for an additional six months until September 2, 2014, subject to general compliance with a work plan; and,

WHEREAS, the Legislature failed to act on the bills, leaving the laws regarding medical marijuana regulations unchanged; and,

WHEREAS, the Court of Appeals affirmed a city's right to prohibit collective gardens in *Cannabis Action Coalition v. City of Kent*; and,

WHEREAS, City staff outlined a work plan based on the anticipated Legislative session schedule; and,

WHEREAS, the City determined that an additional twelve months was necessary to allow for passage of state Legislation and implementation of the city's work plan; and,

WHEREAS, on September 2, 2014, following a public hearing, the City Council adopted Ordinance No. 1692 extending the moratorium for an additional twelve months until September 2, 2015; and,

WHEREAS, on April 25, 2015 the Washington State Legislature passed 2SSB 5052 establishing the Cannabis Patient Protection Act; and,

WHEREAS, the Cannabis Patient Protection Act provides a similar regulatory framework created under I-502 to be administered by the Liquor and Cannabis Board; and,

WHEREAS, the Cannabis Patient Protection Act creates a medical marijuana authorization database for qualifying patients; provides potential endorsement to a licensed recreational marijuana retailer to carry products identified by the Washington Department of Health as beneficial to medical marijuana patients; repeals the authorization for collective gardens, effective July 1, 2016; and, authorizes the establishment of four-member cooperatives also effective July 1, 2016; and,

WHEREAS, on June 23, 2015 City staff presented the medical marijuana framework created under the Cannabis Patient Protection Act, to the City of Oak Harbor Planning Commission; and,

WHEREAS, City staff also presented an aggressive, revised work plan intended to create and adopt medical marijuana regulations within the City by the expiration of the moratorium established under Ordinance No. 1692; and,

WHEREAS, discussion at the June 23, 2015 Planning Commission meeting involved concerns about preparing local medical marijuana regulations while the state may refine and clarify uncertain sections of the Cannabis Patient Protection Act possibly requiring supplemental local code amendments; and,

WHEREAS, the Planning Commission also reasoned that additional time would be valuable to solicit public comment and perception to this issue as well as provide an opportunity to monitor other communities; and,

WHEREAS, a City Council workshop was held on July 22, 2015 to discuss the medical marijuana framework and the Planning Commission concerns and direction; and,

WHEREAS, the Planning Commission continued their discussion of local medical marijuana regulations and unanimously recommended to the City Council approval of Ordinance ____, extending the duration of the moratorium extended under Ordinance 1692 an additional twelve months to September 1, 2016 along with a revised work plan; and

WHEREAS, a public hearing was held on September 1, 2015, to receive and consider public testimony regarding an extension to the moratorium; and,

WHEREAS, the City Council finds that it is necessary to extend the duration of the moratorium as established by Ordinance No. 1666 and as amended by Ordinances No. 1686 and 1692 for an additional twelve months; and,

WHEREAS, the City Council adopts the foregoing as its findings of facts justifying the adoption of this ordinance;

NOW, THEREFORE, the City Council of the City of Oak Harbor, Washington do ordain as follows:

Section One. Extension of Moratorium. In accordance with RCW 36.70A.390, Ordinance No. 1666, adopted September 3, 2013, which imposed a moratorium on the establishment of medical marijuana dispensaries and collective gardens for six months, as amended by Ordinance No. 1686 which extended the moratorium another six months subject to compliance with a work plan, as further amended by Ordinance No. 1692 which extended the moratorium twelve months is hereby extended for an additional twelve months until September 1, 2016, subject to general compliance with the revised work plan shown in Section Two below.

Section Two. Revised Work Plan. The work plan shown below represents a revised work plan as adopted in Section Two of Ordinance No. 1692.

August 2015 – March 2016	<ul style="list-style-type: none"> • Monitor amendments and new bills pertaining to medical marijuana • Monitor direction provided by AWC, MRSC, and review actions taken by peer communities • Facilitate open house to receive public comment • Initiate draft medical marijuana code
March – May 2016	<ul style="list-style-type: none"> • Planning Commission conducts public hearing(s) and forwards recommendations to City Council
June 2016	<ul style="list-style-type: none"> • Provide 60-day notification to Commerce • Complete SEPA process
June – July 2016	<ul style="list-style-type: none"> • City Council workshop(s)
August – September 2016	<ul style="list-style-type: none"> • City Council public hearing(s)

Section Three. Severability. If any provision this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Four. Effective Date. This Ordinance shall be in full force and effect five (5) days after publishing.

PASSED by the City Council this _____ day of _____, 2015.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

Attest:

Approved as to form:

By _____
Anna Thompson, City Clerk

By _____
Nikki Esparza, City Attorney

Date of Publication: _____

Effective Date: _____

DRAFT

COMPREHENSIVE PLAN
LAND USE
AMENDMENT

Public Hearing

CITY OF OAK HARBOR PLANNING COMMISSION

TO: PLANNING COMMISSION
FROM: CAC KAMAK, SENIOR PLANNER
SUBJECT: COMPREHENSIVE PLAN AMENDMENT - LAND USE CHANGE – 185 SW 3RD AVENUE AND ADJACENT PARCELS (R13203-488-4830, R13203-348-4940 AND R13203-488-5060)
DATE: JULY 27, 2015
CC: STEVE POWERS, DEVELOPMENT SERVICES DIRECTOR

PURPOSE:

This memo addresses the land use change requested by Valley High Investments Incorporated for three properties located south of SW 3rd Avenue and west of Oak Harbor Road (Attachment 1). The request was made as part of the 2015 Comprehensive Plan Amendment process.

PROCESS:

The process to amend the Comprehensive Plan is regulated by OHMC Chapter 18.15. This land use amendment was added to the preliminary docket in 2015 as a sponsored amendment and approved by the City Council on March 3, 2015. Public notification on the project will be in accordance to the requirements set forth in OHMC Section 18.20.380(5). The land use change along with the other comprehensive plan amendments will be reviewed by the applicable criteria established under OHMC Section 18.15.080.

BACKGROUND

Valley High Investments Incorporated owns two properties along SW 3rd Avenue. One property (185 SW 3rd Ave) has a single family residence on it, and the other is vacant. The properties are each approximately 44,000 square feet in area and are substantially larger than the 7,200 square feet minimum lot size requirements in the current R-1 Single Family Residential District. Valley High Investments Incorporated believes that these properties can be developed to a higher density and has therefore requested a land use change. To the east of the properties owned by Valley High Investments is a single parcel owned by the Oak Harbor School District (OHSD) that is also currently vacant of structures and has an access road into the Oak Harbor Middle School. The OHSD does not have any change in plans for their property, however, Valley High Investments Incorporated has included the property in the requested change since it creates a better transition to the High Density Residential designated along Oak Harbor Road to the east (see attachment 2 Land Use Map). The OHSD is aware of Valley High Investments request for the land use change and is not opposed to their inclusion in this amendment (see Attachment 3 – letter).

DISCUSSION

Site Characteristics

The properties are mostly flat and are devoid of any sudden slope changes. As mentioned above, there is a single family residence on the western most property of the three included in the request. The property to the west is a church (Assembly of God), and the church's parsonage is adjacent to the single family residence on the applicant's property. To the north and across the street is also a church (First Reformed Church). To the east, the properties are developed with

multifamily residential structures along Oak Harbor Road. Oak Harbor Middle School lies south of the subject properties.

Sewer and water are available to the properties from SW 3rd Avenue. SW 3rd Avenue is primarily a two lane asphalt street with ditches on either side for drainage. The south side of SW 3rd Ave has sidewalks on the south side adjacent to the property.



Review Criteria

OHMC Section 18.15.080 establishes the criteria to review annual amendments to the Comprehensive Plan where the criteria are applicable. The criteria and their review are provided below.

- (1) The amendment will not adversely affect the public health, safety and welfare in any significant way.

The amendment requested will increase the allowed density of the property from 3-6 units per acre to 3-12 units per acre. This increase in density is not uncharacteristic of this area that has high density residential uses immediately adjacent to the east. The other uses surrounding the properties are two churches and a school which would be minimally impacted from the increased density. The proposed amendment and increase in density is well suited to take advantage of the utilities and services that are adjacent to these properties. Therefore, the proposed amendment will not adversely affect the public

health, safety and welfare.

- (2) The proposed amendment is consistent with the overall goals and intent of the comprehensive plan.

The proposed change will allow a higher density residential development in this area. This change is supported by goals and policies in the Comprehensive Plan that support infill development and encourage a mix of housing types. This location is served by city utilities and is near many services such as retail, groceries, home improvement stores, schools etc. The location also serves as an ideal transition from high density to the east to low density to the west. The location for this change is further enhanced due to the location of churches adjacent to the subject properties that provide a break and a transition from the subject properties to other low density residential uses to the west.

- (3) The amendment is in compliance with the Growth Management Act and the countywide planning policies.

The proposed change to the land use designation does not create any inconsistencies with the Growth Management Act or the County Wide Planning Policies. In fact, it is supported by the Act and the CWPP that support infill development and higher densities where infrastructure is already available.

- (4) The amendment addresses the needs or changing circumstances of the community as a whole or resolves inconsistencies in the city's comprehensive plan.

The amendment does not resolve any inconsistencies. However, the amendment can be seen as addressing the needs of changing circumstances because by supporting higher densities within the city limits where urban services are already available, it reduces the need for seeking land in the fringes of the city where utilities need to be extended. It is fair to say that increasing the density, where appropriate, within the city is generally a better option than seeking UGA boundary changes and is highly encouraged by GMA and the CWPP.

- (5) Environmental impacts from the amendments have been addressed through SEPA review and/or measures have been included that reduce possible impacts.

There are no immediate environmental impacts from the land use change. However, development of the property will need to meet the requirements of Oak Harbor's Municipal Code and may require a SEPA review. Any impacts can be addressed at the time of development. Since similar uses are accommodated in both designations, environmental impacts will not be significantly different due to the change.

- (6) The amendment is consistent with the land uses and growth projections which were the basis of the comprehensive plan or to subsequent updates to growth allocations.

The proposed amendment to increase the density is consistent with land use and growth projections. The City is aware that NAS Whidbey will have an increase in personal due to the increase in squadrons. Therefore, increasing the density in areas where services are available will help with providing additional housing options for the increase in population.

- (7) The amendment is generally compatible with neighboring land uses and surrounding neighborhoods.

The proposed amendment is compatible with the neighboring land uses and creates a good transition from the high density multifamily uses to the east to the low density residential uses to the west. The transitions are further enhanced with location of churches adjacent to the subject properties.

- (8) The proposed amendment accommodates new policy direction from the city council.

This is not applicable for this change since it does not address a new policy direction.

- (9) Other specific criteria that may have been identified at the beginning of the process.

Not applicable.

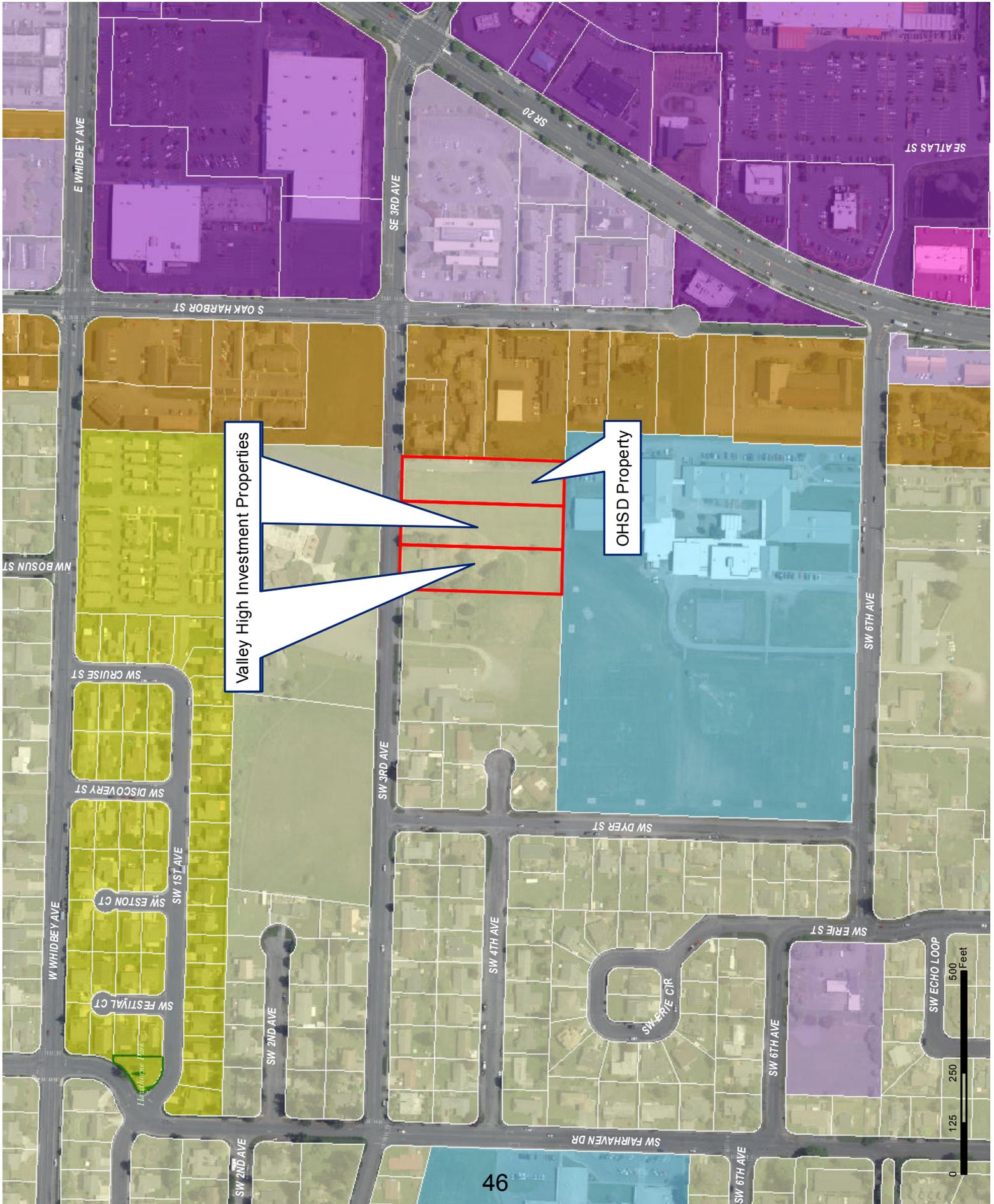
From the above review, it can be determined that there will not likely be adverse impacts from changing the land use designations for the property from Low Density Residential to Medium Density Residential.

RECOMMENDATION

- Conduct Public Hearing
- Recommend amending the Future Land Use Map designation for the subject properties from Low Density Residential to Medium Density Residential.

ATTACHMENTS

1. Location Map
2. Land Use Map
3. OHSD Letter
4. Application
5. Notice to Adjacent Property Owners





OAK HARBOR PUBLIC SCHOOLS

Dr. Lance Gibbon, Superintendent
Steven King, Assistant Superintendent

"A Caring Community Educating Every Student for Success"

January 6, 2015

Cac Kamak, Senior Planner
Planning Services Division
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

Re: Comprehensive Plan Minor Amendment Application – Sponsored Amendment to Change
Land Use Designation for Oak Harbor School District Parcel R132034885060

Dear Mr. Kamak,

The Oak Harbor School District is aware of Valley High Investments Incorporated's submittal of the proposed Comprehensive Plan Land Use Amendment effecting school district owned parcel R132034885060. After review, Oak Harbor School District has determined no objection to the inclusion of said parcel being part of the application.

Sincerely,

Dr. Lance Gibbon
Superintendent

Valley High Investments, Inc.

41 NE Midway Blvd, #101
Oak Harbor, WA 98277
(360) 675-9091 ext. 3
(360) 675-5341 fax

December 1, 2014

Development Service Department
City of Oak Harbor
865 SE Barrington Dr.
Oak Harbor, WA 98277

RECEIVED

DEC 01 2014

CITY OF OAK HARBOR
DEVELOPMENT SERVICES DEPARTMENT

To Whom It May Concern:

Enclosed is a 2015 Comprehensive Plan Minor Land Use Amendment Application submitted by Valley High Investments, Inc. The numbered tabs provide a quick guide to key items set forth by the checklist, located on page four of this packet. The numbers are located on the left side of the checklist page and correspond to each specific requirement of the application. In addition to the checklist items I included a letter addressed to Mr. Steve Powers concerning interpretation of one requirement. The letter is located between item one and two. Thank you for taking the time to review this application.

Sincerely,



Colin Smith
Project Technician
Valley High Investments, Inc.



CITY OF OAK HARBOR
Development Services Department

RECEIVED
DEC 01 2014
 CITY OF OAK HARBOR
 DEVELOPMENT SERVICES DEPARTMENT

2015 Comprehensive Plan
Land Use Amendments Application Form

APPLICANT NAME/CONTACT PERSON (or legal representative): Colin Smith	Address: 41 NE Midway Blvd. Suite 101 Oak Harbor, WA 98277
E-mail Address: colin_smith30@hotmail.com	Phone and Fax: 360-751-9866 and 360-675-5341
PROPERTY OWNER NAME (list multiple owners on a separate sheet): Valley High Investments, Inc.	Address: 41 NE Midwy Blvd. Suite 101 Oak Harbor, WA 98277
E-mail Address: campmassey@comcast.net	Phone and Fax: 360-675-9091 and 360-675-5341
TYPE OF AMENDMENT <input checked="" type="checkbox"/> Minor (Use Checklist A for requirements) <input type="checkbox"/> Major (Use Checklist B)	
Existing Zoning: R-1 Single Family Residential	Parcel Number(s): A: R132034884830 B: R132034884940 C/OHSD: R132034885060
Section/Township/Range: Section 3, Township 32 North, Range 1 East W.M.	Name/Direction from nearest street intersection: Southwest of S. Oak Harbor St. and SW 3rd Ave.
Existing Land Use Designation: R-LD Low Density Residential	Proposed Land Use Designation: R-MD Medium Density Residential

FEES

All comprehensive plan applications shall be accompanied by a non-refundable review fee in the amount of \$1,529.00.

APPLICATIONS DUE BY DECEMBER 1, 2014

AUTHORIZATION:

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.

12/1/2014

Authorized SignatureDate

Property Owner Information for Parcel C, R132034885060

Property Owner Name: Oak Harbor School District #201

Address: 350 S. Oak Harbor St. Oak Harbor, WA 98277

E-mail Address: reception@ohsd.net

Phone and Fax: P-(360) 279-5061 F-(360) 279-5070

OHSD Real Estate Contact:

Vicki Williams
Director
Business Services

Phone- 360.279.5009
E-mail- vwilliams@ohsd.net

CHECKLIST A

COMPREHENSIVE PLAN MINOR LAND USE AMENDMENT CHECKLIST

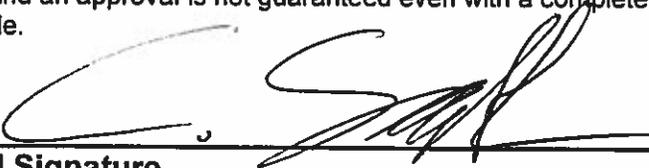
Please check off the following items to assure your application is complete.

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.

Applicant	Staff	Requirements
✓		Letter of intent requesting the amendment signed by the property owner and the party requesting the amendment.
✓		Legal Descriptions of all the properties included in the request.
✓		Title report for all the properties that are included in the request
✓		A map clearly showing location of the property in relation to major streets, section lines and other landmarks. The subject property must be clearly indicated on the map.
✓		A map showing the existing land use designation of the property and surrounding property. The subject property must be clearly indicated on the map.
✓		A map showing the existing zoning designation of the property and the surrounding property. The subject property must be clearly indicated on the map.
✓		Property specifications including approximate dimensions, area, existing structures and other improvements. Provide pictures to support the description.
✓		Description of existing utilities that serve the property, their approximate location, size and capacity if available. (water, sanitary sewer, storm drain, power etc)
✓		Description of streets and sidewalks adjacent to the property (approximate width, curbs, ditches, etc). Provide pictures to support description.
✓		Description of all adjacent uses, their proximity to the subject property, shared easements etc. Provide pictures to support description
✓		Property owner addresses <u>and</u> actual property addresses of properties located within 300 feet of the subject property. Property owner list can be obtained from Island County.
✓		Rationale for amendment – justification, benefits, quote goals listed in the land use element of the Comprehensive Plan,

ACKNOWLEDGEMENT:

The undersigned hereby certifies that all the above required information provided is true and accurate. False statements, errors, and/or omissions may be sufficient cause for dismissal of application. The undersigned also acknowledges that the Comprehensive Plan amendment decision is at the will of the City Council and an approval is not guaranteed even with a complete application. Application fees are non-refundable.


12/1/2014

 Authorized Signature Date

Valley High Investments, Inc.

41 NE Midway Blvd, #101
Oak Harbor, WA 98277
(360) 675-9091 ext. 3
(360) 675-5341 fax

1

December 1, 2014

Mr. Steve Powers
Development Services Director
Planning Services Division
865 SE Barrington Dr.
Oak Harbor, WA 98277

Regarding Parcels: R132034884830, R132034884940, R132034885060
Located at 185 SW 3rd. Avenue, Oak Harbor, WA 98277

Dear Mr. Powers:

Valley High Investments Inc. hereby requests from the city of Oak Harbor a review of our submitted application asking for a 2015 Comprehensive Plan minor land use amendment. The intent of the amendment is to increase density within city limits for future development of the land. The proposed land use amendment will result in the three parcels changing from R-1 low density residential to R-2 medium density residential. Parcel C, which is owned by the Oak harbor School District may not be developed, further mitigating the magnitude of the change. The maximum possible increase in density from the modification of the land use designation for the three total acres is an increase of 18 dwelling units. This is calculated assuming under the current R-1 designations there would be a max number of units of 6DU/ac developed and with the new designation the max allowed, 12DU/ac. Thank you for taking time to review or application and I look forward to working with you throughout the amendment process.

Sincerely,

Valley High Investments Inc.


Julia Price
Company Representative


Colin Smith
Project Technician

Valley High Investments, Inc.

41 NE Midway Blvd, #101
Oak Harbor, WA 98277
(360) 675-9091 ext. 3
(360) 675-5341 fax

December 1, 2014

Mr. Steve Powers
Development Services Director
Planning Services Division
865 SE Barrington Dr.
Oak Harbor, WA 98277

Re: Comprehensive Plan Minor Land Use Amendment

Dear Mr. Powers:

This letter concerns the application of the proposed land use amendment that would result in a land use and zoning designation changes of parcels R132034884830, R132034884940, and R132034885060. As of now there is a difference of interpretation over one of the requirements of the application, which, is in the process of being resolved. Parcel R132034885060 is owned by Oak Harbor School District #201 while the applicant, Valley High Investments, Inc. owns the other two parcels. I met with senior planner Mr. Cac Kamak last Tuesday, November 25th and he mentioned that the application will be deemed as complete only if a formal letter of intent requesting the amendment is signed and submitted by an authorized agent of the Oak Harbor School District #201 in addition to the letter of intent included by the applicant, Valley High Investments, Inc. I believe Valley High Investments, Inc. has fully satisfied all application requirements and is in compliance with the Oak Harbor Municipal Code.

The following section from chapter 18.15 Comprehensive Plan Amendment Process of the municipal code covers private sponsored amendments.

18.15.060 Sponsored amendments.

Sponsored amendments are initiated by the public through the application process. Sponsored amendments are classified into two categories as described below:

(1) Private Amendments. These are applications initiated by an individual property

Valley High Investments, Inc.

41 NE Midway Blvd, #101
Oak Harbor, WA 98277
(360) 675-9091 ext. 3
(360) 675-5341 fax

owner or a group of property owners who are requesting changes that will **primarily** impact properties that they own or control.

(a) Application Requirements.

(i) An application form provided by the department of development services and completed by the applicant that includes, at minimum, the applicant's name, address, contact information, property address and location, parcel number(s), existing land use designation, proposed land use designation and zoning designation.

(ii) A map of the property clearly showing the subject properties and its surrounding context.

(iii) A narrative clearly stating the proposal and what the amendment is attempting to accomplish.

(iv) A completed environmental checklist, if required by the director.

(v) An application processing fee in accordance with RCW [82.02.020](#).

The above highlighted word is key to why the school district letter of intent is not required by ordinance. Valley High Investments is the individual property owner and the requested changes will indeed *primarily* impact the properties it owns. The word *primarily* allows for requested change to effect additional property not owned by the applicant to be included, in this case the adjacent school district parcel. Nowhere in the application requirements does it mention that all property owners must be part of the application. On the application form provided by the planning department the only stipulation is to include multiple owners on a separate sheet. This item I accomplished by listing the school district as an impacted property in the application packet. A letter of intent is a listed requirement on the minor amendment checklist but that too is fulfilled in the application packet. The item states that the property owner and the party requesting the amendment sign a letter of intent requesting the amendment. In this proposed amendment the property owner and the party requesting the change are the same, Valley High Investments, Inc. I am the requesting party and have obtained an authorized signature on behalf of the property owner as well. There is no published municipal or otherwise governing amendment regulation that would require the school district letter of intent that Mr. Kamak has informed me about. Therefore not including the additional school district document should not hinder the processing of the

Valley High Investments, Inc.

41 NE Midway Blvd, #101
Oak Harbor, WA 98277
(360) 675-9091 ext. 3
(360) 675-5341 fax

application.

In the meantime, I have addressed Valley High Investment's intentions with the appropriate school district representative and plan to have the initiative on the school board agenda in the near future.

Sincerely,



Colin Smith

Project Technician

Valley High Investments, Inc.

Legal descriptions of all properties included in request:

Information retrieved from Island County’s GIS mapping system

Valley High Investments Inc. Owned Parcel A:

Parcel ID- R132034884830

Tax-ID- R13203-488-4830

Alt. Tax-ID- 13611

Legal Description- 35 FREUND DC – BG 823.85’S of NE CR SD DC W569.75’
TPB W109.68’ S399’’ E109.68’’ N399’ TPB

Valley High Investments Inc. Owned Parcel B:

Parcel ID- R132034884940

Tax-ID- R13203-488-4940

Alt. Tax-ID- 13620

Legal Description- 34 FREUND DC – BG 823.85’S of NE CR SD DC W 460.75’
TPB W109’ S399’ E109’ N399’ TPB

School District Owned Parcel C:

Parcel ID-R132034885060

Tax-ID- R13203-488-5060

Alt. Tax-ID- 13639

Legal Description- 33 FREUND DC - BG 823.85’S OF NE CR SD DC
W351.75’TPB W109’S399’ E109’N399’TPB

Litigation Guarantee

LTSG 08025627

	<p>SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, a corporation, herein called the Company, for the fee paid for this Guarantee, the number, amount and effective date of which are shown herein hereby Guarantees the parties herein called the Assured, against loss not exceeding the liability amount stated herein which the Assured shall sustain by reason of any incorrectness in the assurance which the Company hereby gives that, according to the public record on the effective date stated herein.</p>
--	---

1. The title to the herein described estate or interest was vested in the vestee named, subject to the matters shown as Exceptions herein, which Exceptions are not necessarily shown in the order of the priority.

This Guarantee is issued with the expectation that within 60 days and based upon the facts set forth herein, a Notice of Trustee's Sale will be prepared and recorded or an action will be commenced in a Court of competent jurisdiction. If a Notice of Sale is not recorded or such action is not commenced, all liability and obligation of the Company hereunder shall cease and terminate 60 days after the effective date shown herein or as may have been extended hereto.

This Guarantee shall not be valid or binding until countersigned below by an authorized officer or agent or the Company.

Issued through the office of:

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
 A Stock Company
 400 Second Avenue South, Minneapolis, Minnesota 55401
 (612) 371-1111

Authorized Signatory

By		President
Attest		Secretary

GUARANTEE CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS

The following terms when used in this Guarantee mean:

- (a) "land": the land described, specifically or by reference, in this Guarantee and improvements affixed thereto which by law constitute real property;
- (b) "public records": those records which impart constructive notice of matters relating to said land;
- (c) "date": the effective date;
- (d) "the Assured": the party or parties named as the Assured in this Guarantee, or in a supplemental writing executed by the Company;
- (e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

2. EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE

The Company assumes no liability for loss or damage by reason of the following:

- (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
- (b) Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water;
- (c) Title to any property beyond the lines of the land expressly described in the description set forth in this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways on which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements are expressly and specifically set forth in said description.
- (d) Defects, liens, encumbrances, adverse claims against the title as guaranteed or other matters (1) created, suffered, assumed or agreed to by one or more of the Assured; or (2) resulting in no loss to the Assured.

3. PROSECUTION OF ACTIONS

- (a) The Company shall have the right at its own cost to institute and prosecute any action or proceeding or do any other act which in its opinion may be necessary or desirable to establish or confirm the matters herein guaranteed; and the Company may take any appropriate action under the terms of this Guarantee whether or not it shall be liable thereunder and shall not thereby concede liability or waive any provision hereof.
- (b) In all cases where the Company does so institute and prosecute any action or proceeding, the Assured shall permit the Company to use, at its option, the name of the Assured for such purpose. Whenever requested by the Company, the Assured shall give the Company all reasonable aid in prosecuting such action or proceeding, and the Company shall reimburse the Assured for any expense so incurred.

4. NOTICE OF LOSS – LIMITATION OF ACTION

A statement in writing of any loss or damage for which it is claimed the Company is liable under this Guarantee shall be furnished to the Company within sixty days after such loss or damage shall have been determined, and no right of action shall accrue to the Assured under this Guarantee until thirty days after such statement shall have been furnished, and no recovery shall be had by the Assured under this Guarantee unless action shall be commenced thereon within two years after expiration of said thirty day period. Failure to furnish such statement of loss or damage or to commence such action within the time hereinbefore specified, shall be a conclusive bar against maintenance by the Assured of any action under this Guarantee.

5. OPTION TO PAY, SETTLE OR COMPROMISE CLAIMS

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit

of a holder of a mortgage, the Company shall have the option to purchase the indebtedness secured by said mortgage. Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness and the mortgage securing the same to the Company upon payment of the purchase price.

6. LIMITATION OF LIABILITY – PAYMENT OF LOSS

- (a) The liability of the Company under this Guarantee shall be limited to the amount of actual loss sustained by the Assured because of reliance upon the assurances herein set forth, but in no event shall such liability exceed the amount of liability stated within this Guarantee.
- (b) The Company will pay all costs imposed upon the Assured in litigation carried on by the Company for the Assured, and all costs and attorneys' fees in litigation carried on by the Assured with the Written authorization of the Company.
- (c) No claim for damages shall arise or be maintainable under this Guarantee (1) if the Company after having received notice of an alleged defect, lien or encumbrance not shown as an Exception or excluded herein removes such defect, lien or encumbrance within a reasonable time after receipt of such notice, or (2) for liability voluntarily assumed by the Assured in settling any claim or suit without written consent of the Company.
- (d) All payments under this Guarantee, except for attorneys' fees as provided for in paragraph 6(b) hereof, shall reduce the amount of the liability hereunder pro tanto, and no payment shall be made without producing this Guarantee for endorsement of such payment unless the Guarantee be lost or destroyed, in which case proof of such loss or destruction shall be furnished to the satisfaction of the Company.
- (e) When liability has been definitely fixed in accordance with the conditions of this Guarantee, the loss or damage shall be payable within thirty days thereafter.

7. SUBROGATION UPON PAYMENT OR SETTLEMENT

Whenever the Company shall have settled a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured, and it shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to such claim had this Guarantee not been issued. If the payment does not cover the loss of the Assured, the Company shall be subrogated to the rights and remedies in the proportion which said payment bears to the amount of said loss. The Assured, if requested by the Company, shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect such right subrogation, and shall permit the Company to use the name of the Assured in any transaction or litigation involving such rights or remedies.

8. GUARANTEE ENTIRE CONTRACT

Any action or actions or rights of action that the Assured may have or may bring against the Company arising out of the subject matter hereof must be based on the provisions of this Guarantee. No provision or condition of this Guarantee can be waived or changed except by a writing endorsed or attached hereto signed by the President, a Vice President, the Secretary, an Assistant Secretary or other validating officer of the Company.

9. NOTICES, WHERE SENT

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at the office which issued this Guarantee, or to its Home Office at 400 Second Avenue South, Minneapolis, Minnesota 55401, (612) 371-1111.

10. FEE

The fee specified on the face of this guarantee is the total fee for title search and examination this Guarantee.



**OLD REPUBLIC NATIONAL
TITLE INSURANCE COMPANY**
A Corporation, of Minneapolis, Minnesota

LITIGATION GUARANTEE

SCHEDULE A

Guarantee No.: LTSG 08025627

Order No.: 108913-O

Date: November 14, 2014 at 8:00 A.M.

Liability \$ 20,000.00

Premium: \$ 270.00

Tax: \$ 23.49

ASSURED:

City of Oak Harbor

THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS GUARANTEE IS:

FEE SIMPLE ESTATE

TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Valley High Investments, Inc., a Washington corporation

THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE COUNTY OF ISLAND STATE OF WASHINGTON, AND DESCRIBED IN EXHIBIT A:

SEE ATTACHED

EXHIBIT "A"

PARCEL A:

That portion of the Ulrich Freund Donation Claim, located in Section 3, Township 32 North, Range 1 East W.M., described as follows:

**Beginning at a point 823.85 feet South of the Northeast corner of the Ulrich Freund Donation Claim;
thence West 569.75 feet to the true point of beginning;
thence West 109.68 feet;
thence South 399 feet;
thence East 109.68 feet;
thence North 399 feet to the true point of beginning.**

Situate in the County of Island, State of Washington.

PARCEL B:

That portion of the Ulrich Freund Donation Claim located in Section 3, Township 32 North, Range 1, East of the W.M., described as follows:

**Beginning at a point 823.85 feet South of the Northeast corner of said Ulrich Freund Donation Claim;
thence West 460.75 feet to the true point of beginning;
thence West 109 feet;
thence South 399 feet;
thence East 109 feet;
thence North 399 feet to the point of beginning.**

Situate in the County of Island, State of Washington.

SCHEDULE B

Defects, liens, encumbrances or other matters affecting title:

SPECIAL EXCEPTIONS:

1. General taxes, as follows, together with interest, penalty and statutory foreclosure costs, if any, after delinquency which can be obtained from the Island County Treasurer's Office (360) 679-7302. First half taxes become delinquent May 1st, if unpaid and second half taxes become delinquent November 1st, if unpaid:

Tax Account No.:	Year	Amount Billed	Amount Paid	Principal Balance
R13203-488-4830 Key 13611, Tax code 100 Total Assessed: \$329,090.00	2014	\$3,769.37	\$3,769.37	\$0.00
R13203-488-4940 Key 13620, Tax code 100* Total Assessed: \$200,000.00	2014	\$2,279.04	\$2,279.04	\$0.00

2. Assessments or LID's, if any, as may be levied by the City of Oak Harbor.
3. Easements, restrictions, and other matters shown on Schedule "B-1" attached are also excepted from coverage. The easements, restrictions and other matters shown as lettered exceptions on Schedule "B-1" are excepted from policy coverage to the same extent that the numbered Schedule B Special Exceptions shown herein are excepted from policy coverage.

NOTE 1: The application for title insurance supplied only an address, parcel number or both. Based on our review of the public records, we believe that the legal description in this report matches what was submitted to us. However, the parties to the forthcoming transaction need to make certain that our legal description is the intended property, and if otherwise, to please notify us immediately.

NOTE 2: Unless otherwise specified, this Company has assigned this file to the following Underwriter for the policy to issue: Old Republic National Title Insurance Company.

set
ENCL:
Paragraphs A & B of Schedule B-1
Sketch

SCHEDULE B-1

EXCEPTIONS:

A. EASEMENT, INCLUDING THE TERMS AND CONDITIONS THEREOF:

Grantee: City of Oak Harbor
Purpose: 10' Sidewalk Easement
Area Affected: North boundary line
Recorded: January 7, 2004
Recording No.: 4087810
(Affects Parcel A)

B. EASEMENT, INCLUDING THE TERMS AND CONDITIONS THEREOF:

Grantee: City of Oak Harbor
Purpose: 10' Sidewalk Easement
Area Affected: North boundary line
Recorded: January 7, 2004
Recording No.: 4087809
(Affects Parcel B)

NOTES

NOTE 1:

Municipality in which said Land is located: **City of Oak Harbor**

NOTE 2:

Legal publication:

Is given once on or between the thirty-fifth and twenty-eighth day before the date of sale, and once on or between the fourteenth and seventh day before the date of sale. See attached list for the appropriate newspaper.

NOTE 3:

The names and addresses of persons who have recorded requests, as provided by RCW 61.24.040(d), for a copy of notice of sale are: **NONE**

NOTE 4:

This Guarantee is for the benefit of the Assured named in Schedule A in determining the record entities having an interest in the property described in Schedule A. It is not to be used as a basis for closing any transaction and no insurance for such a transaction is provided herein.

NOTE 5:

Attention is called to the Federal Tax Lien Act of 1966 (Public Law 89-719) which, among other things, provides for the giving of written notice of sale in a specified manner to the Secretary of Treasury or his or her delegate as a requirement for the discharge or divestment of a Federal Tax Lien in a nonjudicial sale, and establishes with respect to such lien a right in the United States to redeem the property within a period of 120 days from the date of any such sale.

Attention is called to Soldiers' and Sailors' Civil Relief Act of 1940 and amendments thereto and the Military Reservist Relief Act of 1991 (Sec. 800 to 810, Military and Veterans Code) which contain inhibitions against the sale of land under a deed of trust if the owner is entitled to the benefits of said Acts.

NOTE 6:

If it is necessary to cancel this Guarantee you must return the original to the company. Upon receipt of the original Guarantee, a cancellation fee equal to 50% of the premium quoted herein will apply, together with 8.7% sales tax, with a minimum charge of \$270.00 plus \$23.49 tax.

NOTE 7:

If an abbreviated legal description is needed on the forthcoming instrument in order to comply with the recording format statute, one similar to the following is suggested:

Ptn Ulrich Freund DLC, Sec 3-32-1 EWM

LEGAL PUBLICATION

Name	Address	City	State	Zip
Whidbey News Times	107 S. Main Street #E101	Coupeville	WA	98239
South Whidbey Record	107 S. Main Street #E101	Coupeville	WA	98239
The Whidbey Examiner	6 NW Coveland St.	Coupeville	WA	98239
Stanwood Camano News	9005 271 st St. NW	Stanwood	WA	98292

Land Title and Escrow of Island County

Privacy Policy Notice

PURPOSE OF THIS NOTICE

Old Republic National Title Insurance Company and Land Title and Escrow of Island County

PURPOSE OF THIS NOTICE

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides you with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of Old Republic National Title Insurance Company and Land Title Company of Island County.

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you, such as on applications or other forms.
- Information about your transactions we secure from our files, or from our affiliates or others.
- Information we receive from a consumer reporting agency.
- Information that we receive from others involved in your transaction, such as the real estate agent or lender.

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law.

We also may disclose this information about our customers or former customers to the following types of nonaffiliated companies that perform marketing services on our behalf or with whom we have joint marketing agreements:

- Financial service providers such as companies engaged in banking, consumer finance, securities and insurance.
- Non-financial companies such as envelope stuffers and other fulfillment service providers.

WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.



ISLAND COUNTY AUDITOR

EAS

Return Name & Address:
CITY OF OAK HARBOR
965 SE BARRINGTON DR
OAK HARBOR WA 98277

Please print or type information

Document Title(s) (or transactions contained therein):	
1. 10' SIDEWALK EASEMENT 2.	
Reference Number(s) - (recording number of document being assigned, released, re-recorded, etc.)	
Grantor - (seller, assignor, signator) borrower	
1. DONALD R HERMAN 2. CAROLE C HERMAN 3.	EXCISE TAX EXEMPT JAN 07 2004 LINDA E. HOFFE ISLAND COUNTY TREASURER
Additional names on page _____ of document.	
Grantee - (buyer, assignee, notice given to) lender, trustee	
1. CITY OF OAK HARBOR 2. 3.	
Additional names on page _____ of document.	
Legal Description - Abbreviated: i.e. lot/block/plat or section/township/range & quarter/quarter WC PORTION OF ULRICH FRIEND DONATION CLAIM SEC. 3 T. 32 N R 1 E	
See page <u>1</u> for full legal.	
Assessor's Tax Parcel Number	
12 13203 - 488 - 4940	
Additional parcel numbers on page _____.	
The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.	



ISLAND COUNTY AUDITOR

EAS

Return to: City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

EASEMENT

THE GRANTOR(S) DONALD R. HERMAN AND CAROLE C. HERMAN for and in consideration of mutual benefits grants a 10 foot wide easement to the City of Oak Harbor for sidewalk along the north boundary line, upon the following described property situated in the County of Island, State of Washington together with all after acquired title of the grantor(s) therein:

Assessors Parcel # R13203-488-4940

That portion of the Ulrich Freund Donation Claim, located in Section 3, Township 32 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at a point 823.85 feet South of the Northeast corner of the Ulrich Freund Donation Claim:
Thence West 460.75 feet to the true point of beginning;
Thence West 109 feet;
Thence South 399 feet;
Thence East 109 feet;
Thence North 399 feet to the true point of beginning.

Situate in Island County, Washington

Dated this 31st day of December, 2003

Signature *Donald R. Herman*
Carole C. Herman

STATE OF _____)
COUNTY OF _____)ss

I certify that I know or have satisfactory evidence that _____ signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

See attached

Dated _____
Signature _____
Print _____
Notary Public for the State of _____
residing in _____
My appointment expires _____



ISLAND COUNTY AUDITOR

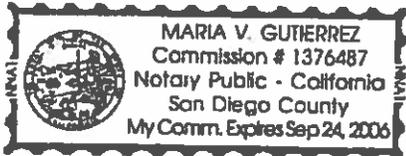
ERS

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Diego } ss.

On December 31, 2003 before me, Maria V. Gutierrez Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Donald R. and Carole C. Harmon
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Maria V. Gutierrez
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Easement - R13203-488-4940
Document Date: 12-31-03 Number of Pages: 1
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney-in-Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____

Signer Is Representing: _____





ISLAND COUNTY AUDITOR

EAB

Return Name & Address:
CITY OF OAK HARBOR
865 SE BARRINGTON DR
OAK HARBOR WA 98277

Please print or type information

Document Title(s) (or transactions contained therein):	
1. 10' SIDEWALK EASEMENT 2. EASEMENT	
Reference Number(s) - (recording number of document being assigned, released, re-recorded, etc.)	
Grantor - (seller, assignor, signator) borrower	
1. DONALD R AND HERMAN 2. CAROLE C HERMAN 3.	EXCISE TAX FYEMPT JAN 07 2004 LINDA E. RIFFE ISLAND COUNTY TREASURER
Additional names on page ___ of document.	
Grantee - (buyer, assignee, notice given to) lender, trustee	
1. CITY OF OAK HARBOR 2. 3.	
Additional names on page ___ of document.	
Legal Description - Abbreviated: i.e. lot/block/plat or section/township/range & quarter/quarter	
PORTION OF ULRICH FREUND DONATION CLAIM SECTION 3 T 32N R 1E	
See page <u>1</u> for full legal.	
Assessor's Tax Parcel Number	
R13203 - 488 - 4830	
Additional parcel numbers on page ___.	
The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.	



ISLAND COUNTY AUDITOR EAS

Return to: City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

EASEMENT

THE GRANTOR(S) DONALD R. HERMAN AND CAROLE C. HERMAN for and in consideration of mutual benefits grant a 10 foot wide easement to the City of Oak Harbor for sidewalk along the north boundary line, upon the following described property along the situated in the County of Island, State of Washington together with all after acquired title of the grantor(s) therein:

Assessors Parcel # R13203-488-4830

That portion of the Ulrich Freund Donation Claim, located in Section 3, Township 32 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at a point 823.85 feet South of the Northeast corner of the Ulrich Freund Donation Claim;
Thence West 569.75 feet to the true point of beginning;
Thence West 109.68 feet;
Thence South 399 feet;
Thence East 109.68 feet;
Thence North 399 feet to the true point of beginning.

Situate in Island County, Washington

Dated this 31st day of December, 2003

Signature Donald Herman
Carole C. Herman

STATE OF _____)
COUNTY OF _____)ss

I certify that I know or have satisfactory evidence that _____ signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated _____
Signature _____
Print _____
Notary Public for the State of _____
residing in _____
My appointment expires _____

See attached



ISLAND COUNTY AUDITOR

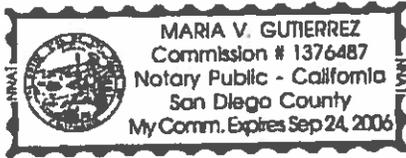
ERS

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of San Diego } ss.

On December 31, 2003 before me, Maria V. Gutierrez
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Donald R. and Carole C. Herndon
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.
Maria V. Gutierrez
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Easement - R13203-488-4830
Document Date: 12-31-03 Number of Pages: 1
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney-in-Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer is Representing: _____



Litigation Guarantee

LTSG 08025628

	<p>SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, a corporation, herein called the Company, for the fee paid for this Guarantee, the number, amount and effective date of which are shown herein hereby Guarantees the parties herein called the Assured, against loss not exceeding the liability amount stated herein which the Assured shall sustain by reason of any incorrectness in the assurance which the Company hereby gives that, according to the public record on the effective date stated herein.</p>
--	---

- I. The title to the herein described estate or interest was vested in the vestee named, subject to the matters shown as Exceptions herein, which Exceptions are not necessarily shown in the order of the priority.

This Guarantee is issued with the expectation that within 60 days and based upon the facts set forth herein, a Notice of Trustee's Sale will be prepared and recorded or an action will be commenced in a Court of competent jurisdiction. If a Notice of Sale is not recorded or such action is not commenced, all liability and obligation of the Company hereunder shall cease and terminate 60 days after the effective date shown herein or as may have been extended hereto.

This Guarantee shall not be valid or binding until countersigned below by an authorized officer or agent or the Company.

Issued through the office of:

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
 A Stock Company
 400 Second Avenue South, Minneapolis, Minnesota 55401
 (612) 371-1111

Authorized Signatory

By  President

Attest  Secretary

GUARANTEE CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS

The following terms when used in this Guarantee mean:

- (a) "land": the land described, specifically or by reference, in this Guarantee and improvements affixed thereto which by law constitute real property;
- (b) "public records": those records which impart constructive notice of matters relating to said land;
- (c) "date": the effective date;
- (d) "the Assured": the party or parties named as the Assured in this Guarantee, or in a supplemental writing executed by the Company;
- (e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

2. EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE

The Company assumes no liability for loss or damage by reason of the following:

- (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
- (b) Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water;
- (c) Title to any property beyond the lines of the land expressly described in the description set forth in this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways on which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements are expressly and specifically set forth in said description.
- (d) Defects, liens, encumbrances, adverse claims against the title as guaranteed or other matters (1) created, suffered, assumed or agreed to by one or more of the Assured; or (2) resulting in no loss to the Assured.

3. PROSECUTION OF ACTIONS

- (a) The Company shall have the right at its own cost to institute and prosecute any action or proceeding or do any other act which in its opinion may be necessary or desirable to establish or confirm the matters herein guaranteed; and the Company may take any appropriate action under the terms of this Guarantee whether or not it shall be liable thereunder and shall not thereby concede liability or waive any provision hereof.
- (b) In all cases where the Company does so institute and prosecute any action or proceeding, the Assured shall permit the Company to use, at its option, the name of the Assured for such purpose. Whenever requested by the Company, the Assured shall give the Company all reasonable aid in prosecuting such action or proceeding, and the Company shall reimburse the Assured for any expense so incurred.

4. NOTICE OF LOSS -- LIMITATION OF ACTION

A statement in writing of any loss or damage for which it is claimed the Company is liable under this Guarantee shall be furnished to the Company within sixty days after such loss or damage shall have been determined, and no right of action shall accrue to the Assured under this Guarantee until thirty days after such statement shall have been furnished, and no recovery shall be had by the Assured under this Guarantee unless action shall be commenced thereon within two years after expiration of said thirty day period. Failure to furnish such statement of loss or damage or to commence such action within the time hereinbefore specified, shall be a conclusive bar against maintenance by the Assured of any action under this Guarantee.

5. OPTION TO PAY, SETTLE OR COMPROMISE CLAIMS

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit

of a holder of a mortgage, the Company shall have the option to purchase the indebtedness secured by said mortgage. Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness and the mortgage securing the same to the Company upon payment of the purchase price.

6. LIMITATION OF LIABILITY -- PAYMENT OF LOSS

- (a) The liability of the Company under this Guarantee shall be limited to the amount of actual loss sustained by the Assured because of reliance upon the assurances herein set forth, but in no event shall such liability exceed the amount of liability stated within this Guarantee.
- (b) The Company will pay all costs imposed upon the Assured in litigation carried on by the Company for the Assured, and all costs and attorneys' fees in litigation carried on by the Assured with the Written authorization of the Company.
- (c) No claim for damages shall arise or be maintainable under this Guarantee (1) if the Company after having received notice of an alleged defect, lien or encumbrance not shown as an Exception or excluded herein removes such defect, lien or encumbrance within a reasonable time after receipt of such notice, or (2) for liability voluntarily assumed by the Assured in settling any claim or suit without written consent of the Company.
- (d) All payments under this Guarantee, except for attorneys' fees as provided for in paragraph 6(b) hereof, shall reduce the amount of the liability hereunder pro tanto, and no payment shall be made without producing this Guarantee for endorsement of such payment unless the Guarantee be lost or destroyed, in which case proof of such loss or destruction shall be furnished to the satisfaction of the Company.
- (e) When liability has been definitely fixed in accordance with the conditions of this Guarantee, the loss or damage shall be payable within thirty days thereafter.

7. SUBROGATION UPON PAYMENT OR SETTLEMENT

Whenever the Company shall have settled a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured, and it shall be be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to such claim had this Guarantee not been issued. If the payment does not cover the loss of the Assured, the Company shall be subrogated to the rights and remedies in the proportion which said payment bears to the amount of said loss. The Assured, if requested by the Company, shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect such right subrogation, and shall permit the Company to use the name of the Assured in any transaction or litigation involving such rights or remedies.

8. GUARANTEE ENTIRE CONTRACT

Any action or actions or rights of action that the Assured may have or may bring against the Company arising out of the subject matter hereof must be based on the provisions of this Guarantee.

No provision or condition of this Guarantee can be waived or changed except by a writing endorsed or attached hereto signed by the President, a Vice President, the Secretary, an Assistant Secretary or other validating officer of the Company.

9. NOTICES, WHERE SENT

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at the office which issued this Guarantee, or to its Home Office at 400 Second Avenue South, Minneapolis, Minnesota 55401, (612) 371-1111.

10. FEE

The fee specified on the face of this guarantee is the total fee for title search and examination this Guarantee.



**OLD REPUBLIC NATIONAL
TITLE INSURANCE COMPANY**
A Corporation, of Minneapolis, Minnesota

LITIGATION GUARANTEE

SCHEDULE A

Guarantee No.: LTSG 08025628

Order No.: 108914-O

Date: November 14, 2014 at 8:00 A.M.

Liability \$ 20,000.00

Premium: \$ 270.00

Tax: \$ 23.49

ASSURED:

City of Oak Harbor

THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS GUARANTEE IS:

FEE SIMPLE ESTATE

TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Oak Harbor School District No. 201

THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE COUNTY OF ISLAND STATE OF WASHINGTON, AND DESCRIBED IN EXHIBIT A:

SEE ATTACHED

EXHIBIT "A"

That portion of the Ulrich Freund Donation Claim located in Section 3, Township 32 North, Range 1 East W.M., described as follows:

Beginning at a point 823.85 feet South of the Northeast corner of said Ulrich Freund Donation Claim;

thence West 351.75 feet to the true point of beginning;

thence West 109 feet;

thence South 399 feet;

thence East 109 feet;

thence North 399 feet to the true point of beginning;

Situate in the County of Island, State of Washington.

SCHEDULE B

Defects, liens, encumbrances or other matters affecting title:

SPECIAL EXCEPTIONS:

1. General taxes, as follows, together with interest, penalty and statutory foreclosure costs, if any, after delinquency which can be obtained from the Island County Treasurer's Office (360) 679-7302. First half taxes become delinquent May 1st, if unpaid and second half taxes become delinquent November 1st, if unpaid:

Tax Account No.:	Year	Amount Billed	Amount Paid	Principal Balance
R13203-488-5060	2014	\$0.00	\$0.00	\$0.00
Key 13639, Tax code 108				
Total Assessed: \$200,000.00				

2. The property herein described is carried on the tax rolls as exempt, however, it will become taxable from the date of execution of a conveyance to a taxable entity and subject to the lien of real property taxes for the balance of the year from that date.

3. Assessments or LID's, if any, as may be levied by the City of Oak Harbor.

4. Easements, restrictions, and other matters shown on Schedule "B-1" attached are also excepted from coverage. The easements, restrictions and other matters shown as lettered exceptions on Schedule "B-1" are excepted from policy coverage to the same extent that the numbered Schedule B Special Exceptions shown herein are excepted from policy coverage.

5. A showing should be made of the authority of the officers executing the proposed deed, or contract, on behalf of Oak Harbor School District NO. 201, and said deed or contract must be authorized by resolution of the directors of said corporation.

NOTE 1: The application for title insurance supplied only an address, parcel number or both. Based on our review of the public records, we believe that the legal description in this report matches what was submitted to us. However, the parties to the forthcoming transaction need to make certain that our legal description is the intended property, and if otherwise, to please notify us immediately.

NOTE 2: Unless otherwise specified, this Company has assigned this file to the following Underwriter for the policy to issue: Old Republic National Title Insurance Company.

set
ENCL:
Paragraphs A-E
Sketch

SCHEDULE B-1

EXCEPTIONS:

A. Matters as disclosed by survey recorded October 28, 1974 under Auditor's File No. 278341 in Volume 2 of Surveys, page 11, records of Island County, Washington.

B. EASEMENT, INCLUDING THE TERMS AND CONDITIONS THEREOF:

Grantee: City of Oak Harbor
Purpose: An easement for utilities under the south seven feet of the described real property
Area Affected: Said premises
Dated: October 5, 1989
Recorded: October 6, 1989
Recording No.: 89014415

C. Sidewalk Deferral Agreement as recorded May 25, 1999 under Auditor's File No. 99012435.

D. EASEMENT, INCLUDING THE TERMS AND CONDITIONS THEREOF:

Grantee: Puget Sound Power & Light Company
Purpose: Electric transmission and/or distribution line
Area Affected: Said premises
Dated: August 28, 1999
Recorded: September 28, 1999
Recording No.: 99022243

E. EASEMENT, INCLUDING THE TERMS AND CONDITIONS THEREOF:

Grantee: City of Oak Harbor
Purpose: 10' Sidewalk Easement
Area Affected: North boundary line
Recorded: January 7, 2004
Recording No.: 4087808

NOTES

NOTE 1:

Municipality in which said Land is located: **City of Oak Harbor**

NOTE 2:

Legal publication:

Is given once on or between the thirty-fifth and twenty-eighth day before the date of sale, and once on or between the fourteenth and seventh day before the date of sale. See attached list for the appropriate newspaper.

NOTE 3:

The names and addresses of persons who have recorded requests, as provided by RCW 61.24.040(d), for a copy of notice of sale are: **NONE**

NOTE 4:

This Guarantee is for the benefit of the Assured named in Schedule A in determining the record entities having an interest in the property described in Schedule A. It is not to be used as a basis for closing any transaction and no insurance for such a transaction is provided herein.

NOTE 5:

Attention is called to the Federal Tax Lien Act of 1966 (Public Law 89-719) which, among other things, provides for the giving of written notice of sale in a specified manner to the Secretary of Treasury or his or her delegate as a requirement for the discharge or divestment of a Federal Tax Lien in a nonjudicial sale, and establishes with respect to such lien a right in the United States to redeem the property within a period of 120 days from the date of any such sale.

Attention is called to Soldiers' and Sailors' Civil Relief Act of 1940 and amendments thereto and the Military Reservist Relief Act of 1991 (Sec. 800 to 810, Military and Veterans Code) which contain inhibitions against the sale of land under a deed of trust if the owner is entitled to the benefits of said Acts.

NOTE 6:

If it is necessary to cancel this Guarantee you must return the original to the company. Upon receipt of the original Guarantee, a cancellation fee equal to 50% of the premium quoted herein will apply, together with 8.7% sales tax, with a minimum charge of \$270.00 plus \$23.49 tax.

NOTE 7:

If an abbreviated legal description is needed on the forthcoming instrument in order to comply with the recording format statute, one similar to the following is suggested:

Ptn of Ulrich Freund DLC, Sec 3-32-1 EWM

LEGAL PUBLICATION

Name	Address	City	State	Zip
Whidbey News Times	107 S. Main Street #E101	Coupeville	WA	98239
South Whidbey Record	107 S. Main Street #E101	Coupeville	WA	98239
The Whidbey Examiner	6 NW Coveland St.	Coupeville	WA	98239
Stanwood Camano News	9005 271 st St. NW	Stanwood	WA	98292

Land Title and Escrow of Island County

Privacy Policy Notice

PURPOSE OF THIS NOTICE

Old Republic National Title Insurance Company and Land Title and Escrow of Island County

PURPOSE OF THIS NOTICE

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides you with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of Old Republic National Title Insurance Company and Land Title Company of Island County.

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you, such as on applications or other forms.
- Information about your transactions we secure from our files, or from our affiliates or others.
- Information we receive from a consumer reporting agency.
- Information that we receive from others involved in your transaction, such as the real estate agent or lender.

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law.

We also may disclose this information about our customers or former customers to the following types of nonaffiliated companies that perform marketing services on our behalf or with whom we have joint marketing agreements:

- Financial service providers such as companies engaged in banking, consumer finance, securities and insurance.
- Non-financial companies such as envelope stuffers and other fulfillment service providers.

WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

89014415

FILED RECORDED
VOC
PAGE
City of Oak Harbor
Oct 6 4 05 PM '89

H.M. 181

UTILITY EASEMENT

Oak Harbor School District No. 201, a political subdivision of the State of Washington, hereby dedicates the following easement and conveys and quit claims the following described easement to the City of Oak Harbor, a political subdivision of the State of Washington, for good and valuable consideration, as follows:

An easement for utilities under the south seven feet of the following described real property situated in the County of Island, State of Washington, as follows:

PARCEL A:

That portion of the ULRICH FREUND DONATION CLAIM located in Section 3, Township 32 North, Range 1, E.W.M., described as follows:

Beginning at a point 823.85 feet South of the Northeast corner of said Ulrich Freund Donation Claim; thence West 351.75 feet to the true point of beginning; thence West 109 feet; thence South 399 feet; thence East 109 feet; thence North 399 feet to the true point of beginning; situate in the County of Island, State of Washington.

PARCEL B:

That portion of the ULRICH FREUND DONATION CLAIM in Section 2 and 3, Township 32 North, Range 1, E.W.M., described as follows:

Beginning at a point 1,222.85 feet South of the Northeast corner of said donation claim; thence West 280 feet to the true point of beginning; thence East 939 feet; thence South 730.2 feet; thence East 939 feet; thence North 730.2 feet to the true point of beginning.

EXECUTED on the day and date as set forth below.

OAK HARBOR SCHOOL DISTRICT NO. 201

EXCISE TAX EXEMPT

By: *[Signature]*

OCT -6 1989

Title: *[Signature]*

(attach to 17)

MAXINE R. GAUTER
ISLAND COUNTY TREASURER

UTILITY EASEMENT
Page 1

The COHEN, MANNI & THEUNE Law Firm

PO Box 103
Oak Harbor, WA 98281
Ph: 360-675-1118

10-6-89
89014415
GC
TF

STATE OF WASHINGTON)
) ss
COUNTY OF ISLAND)

On this day before me, the undersigned Notary Public in and for the state of Washington, personally appeared Roger L. Woehl, to me known to be the Superintendent of OAK HARBOR SCHOOL DISTRICT NO. 201, and acknowledged to me that he signed the within and foregoing Easement for Water Main and Fire Main for and on behalf of said OAK HARBOR SCHOOL DISTRICT NO. 201, for the uses and purposes therein mentioned, being thereunto duly authorized.

Given under my hand and official seal this 5th day of October, 1989.

John R. Williams
NOTARY PUBLIC in and for the state of
Washington, residing at Oak Harbor
My commission expires: 6-31-92

10-6-89

Return to: City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

899 012435 TYPE: AGR 112.00
BK 787 PG 1317 5/25/99 11:23:05 AM
ISLAND COUNTY AUDITOR
DEPUTY: CB REQUESTED BY:
CITY OF OAK HARBOR

EXCISE TAX RECEIPT

MAY 26 1999

SIDEWALK DEFERRAL AGREEMENT

THE CITY OF OAK HARBOR, hereafter referred to as the "City," and Oak Harbor School District #201, hereafter referred to as "Owner," on the 26th day of April 1999 make the following representations.

5-25-99

I. RECITALS

1.1 Owner is the owner of the following described property:

Assessor's Parcel No. R13203.488.5080

See attached legal description

THAT PORTION OF THE ULRICH FREUND D.L.C. LOCATED IN SEC 3, T14P 32N,
R1E.

Hereafter it is referred to as the "property."

1.2 The City of Oak Harbor is a municipal corporation organized under the laws of the State of Washington and has authority under Municipal Code Section 17.04.170 to require sidewalks adjacent to property because the Owner is constructing a new building and/or repairing an existing structure on the property.

1.3 The sidewalk is necessary but possible changes in the grade of the road indicate that the sidewalk be put in later.

1.4 The Owner has requested deferral and agrees to put the sidewalk in at a later time upon request; now, therefore, the parties mutually agree as follows:

GNRL BK 787 PG 1317

II. AGREEMENT TO DEFER SIDEWALK

2.1 The City hereby agrees to allow the Owner an extension in time to put the sidewalk in up to a period of five (5) years; provided, the City may require the sidewalk as per the attached drawing (Exhibit A hereto attached) at any time earlier.

2.2 The Owner hereby agrees to build the sidewalk upon demand of the city or within five (5) years, whichever event comes first.

2.3 The owner hereby agrees to install the sidewalk to City specifications within 45 days of written notification by the City.

66-50-5

III. DAMAGES AND OTHER RELIEF

3.1 The City may elect that should the Owner breach this Agreement the damages will be the cost to the City if it constructs the sidewalk plus court costs and costs of attorneys fees to collect the damages.

3.2 The City shall have the right to other relief available by law including injunction to compel the construction of the sidewalk.

IV. CONSTRUCTION

4.1 The rights and duties under this Agreement shall run with the land and bind the heirs, successors and assigns of each of the parties. This Agreement shall be recorded with the Auditor's Office.

4.2 Any amendments to this Agreement shall be in writing and approved by the City Council.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 26th day of April, 1999.

CITY OF OAK HARBOR

Arny Haley
Owner
Construction Manager
Oak Harbor School Dist.

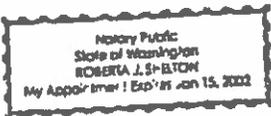
[Signature]
Mayor

Sidewalk Deferral Agreement
Oak Harbor School District #201
Page Three

STATE OF WASHINGTON)
COUNTY OF ISLAND } ss

On this day personally appeared before me Steve Dembach, to me known to be the Mayor of the City of Oak Harbor, the municipal corporation described in the foregoing instrument, and acknowledged to me that he signed the same on behalf of the said corporation and that he was authorized to execute the same for the uses and purposes mentioned in the instrument.

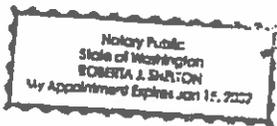
66-52-5



Dated April 26, 1999
Signature of Roberta J. Shelton
Notary Public ROBERTA J. SHELTON
Title Notary Public
My appointment expires 1-15-02

STATE OF WASHINGTON)
COUNTY OF ISLAND } ss

I certify that I know or have satisfactory evidence that GARY SALTZ signed this instrument, on oath stating that (he/she) was authorized to execute the instrument and acknowledged it as the CONSTRUCTION MANAGER (type of authority, e.g. officer, trustee, etc.) of OAK HARBOR SCHOOL DISTRICT #201 (name of party on behalf of whom instrument was executed) to be the free and voluntary act for the uses and purposes mentioned in the instrument.



Dated April 26, 1999
Signature of Roberta J. Shelton
Notary Public ROBERTA J. SHELTON
Title Notary Public
My appointment expires 1-15-02

58-3

THAT PORTION OF THE ULRICH FREUND DONATION CLAIM LOCATED IN SECTION 3, TOWNSHIP 32 NORTH, RANGE 1 E.W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 223.83 FEET SOUTH OF THE NORTHEAST CORNER OF SAID ULRICH FREUND DONATION CLAIM;

THENCE WEST 351.73 FEET TO THE TRUE POINT OF BEGINNING;

THENCE WEST 109 FEET;

THENCE SOUTH 399 FEET;

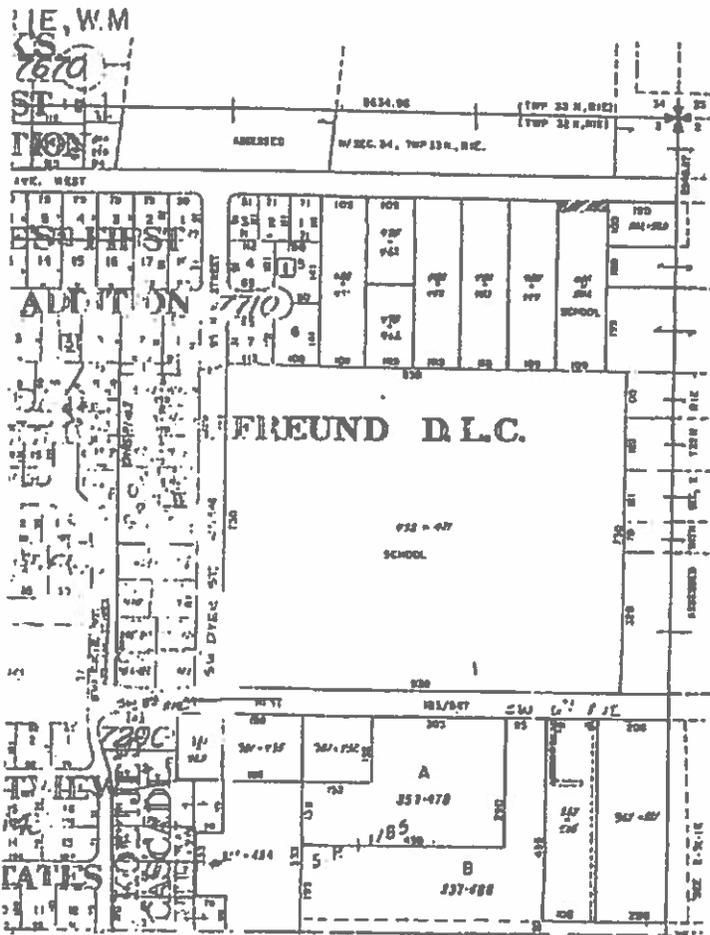
THENCE EAST 109 FEET;

THENCE NORTH 399 FEET TO THE TRUE POINT OF BEGINNING;

EXCEPT ANY PORTION LYING WITHIN SW 1ST AVENUE ALONG THE NORTH BOUNDARY THEREOF PRIOR TO APRIL 23, 1999.

ALSO EXCEPT THE NORTH 10.00 FEET THEREOF, BEING A STRIP OF LAND 10.00 FEET IN WIDTH AND LYING SOUTH OF AND ABUTTING THE SOUTH R/W MARGIN OF SAID SW 1ST AVENUE AS EXISTING ON APRIL 23, 1999

5-25-99



5-25-99

999 022243 TYPE: EAS 99.00
BK 798 PG 192 9/28/99 2:24:48 PM
ISLAND COUNTY AUDITOR
DEPUTY: CB REQUESTED BY:
LAND TITLE COMPANY

RETURN ADDRESS:
Puget Sound Energy, Inc.
Attn: ROW Department
1700 E. College Way
Mount Vernon, WA 98273

EXCISE TAX EXEMPT

SEP 28 1999

EASEMENT

(customer form)

REFERENCE #: M6512
GRANTOR: OAK Harbor School Dist. #281
GRANTEE: Puget Sound Energy, Inc.
ASSASSOR'S PROPERTY TAX PARCEL: R13207-477-10540
SHORT LEGAL: See 3, Top 378 8012 see full legal on page 2
JOB NO: 27590 / 105006480

OP. MAP NO 18-J, 66, 77 10 JOB NO: 27590 / 105006480

For and in consideration of One Dollar (\$1.00) and other valuable consideration in hand paid, Oak Harbor School Dist. #281 ("Grantor" herein), its successors and assigns hereby conveys and warrants to PUGET SOUND ENERGY, INC., a Washington Corporation ("Grantee" herein), its successors and assigns for the purposes hereinafter set forth, a nonexclusive perpetual easement over, under, along across and through the following described real property ("Property" herein) in Island County, Washington:

SEE EXHIBIT 'A' ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

EASEMENT LOCATION: Except as may be otherwise set forth herein, Grantee's rights shall be exercised upon that portion of the Property (the "Easement Area" herein) that is ten (10) feet in width having five (5) feet of such width on each side of the centerline of Grantee's systems located as constructed or to be constructed, extended or relocated on the Property, except those portions of the Property occupied by building footings, foundations, and/or substructure structures.

1. Purpose. Grantee shall have the right to construct, operate, maintain, repair, replace, improve, remove, enlarge, and use the Easement Area for one or more utility systems for purposes of transmission, distribution and sale of gas and electricity, together with the right of access over and across said Property to enable Grantee to exercise its rights hereunder. As used herein, the term "systems" shall include all appurtenances and facilities as are necessary, in the judgment of Grantee, for the operation and maintenance of said systems.
2. Grantor's Use of Easement Area. Grantor agrees not to erect any structures on said Easement Area, and further agrees not to place trees, rocks, fences or other obstructions on the Property that would interfere with the exercise of Grantee's rights herein.

DATED this 28th day of August, 1999

GRANTOR: By: [Signature]
BY: [Signature]

STATE OF WASHINGTON }
COUNTY OF } SS

On this 28th day of August, 1999, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Charles J. Ross to me known to be the individual(s) who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this hereto dated the day and year in this certificate first above written.



[Signature]

(Print or stamp name of Notary)
NOTARY PUBLIC in and for the State of
Washington, residing at 1922 Island Blvd. Astoria
My appointment expires 10-20-01

[Signature]
great form 11/1996

EXHIBIT "A"
OAK HARBOR SCHOOL DISTRICT No. 201

THAT PORTION OF THE ULRICH FREUND DONATION CLAIM LOCATED IN SECTION 3, TOWNSHIP 32 NORTH, RANGE 1 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 823.85 FEET SOUTH OF THE NORTHEAST CORNER OF SAID ULRICH FREUND DONATION CLAIM; THENCE WEST 351.75 FEET TO THE TRUE POINT OF BEGINNING; THENCE WEST 109 FEET; THENCE SOUTH 399 FEET; THENCE EAST 109 FEET; THENCE NORTH 399 FEET TO THE TRUE POINT OF BEGINNING.

AND

THAT PORTION OF THE ULRICH FREUND DONATION CLAIM IN SECTIONS TWO (2) AND THREE (3), TOWNSHIP THIRTY-TWO (32) NORTH, RANGE (1) EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 1222.85 FEET SOUTH OF THE NORTHEAST CORNER OF SAID DONATION CLAIM; THENCE WEST 280 FEET TO THE TRUE POINT OF BEGINNING; THENCE WEST 939 FEET; THENCE SOUTH 730.2 FEET; THENCE EAST 939 FEET; THENCE NORTH 730.2 FEET TO THE TRUE POINT OF BEGINNING.

66-22-6



ISLAND COUNTY AUDITOR

EAS

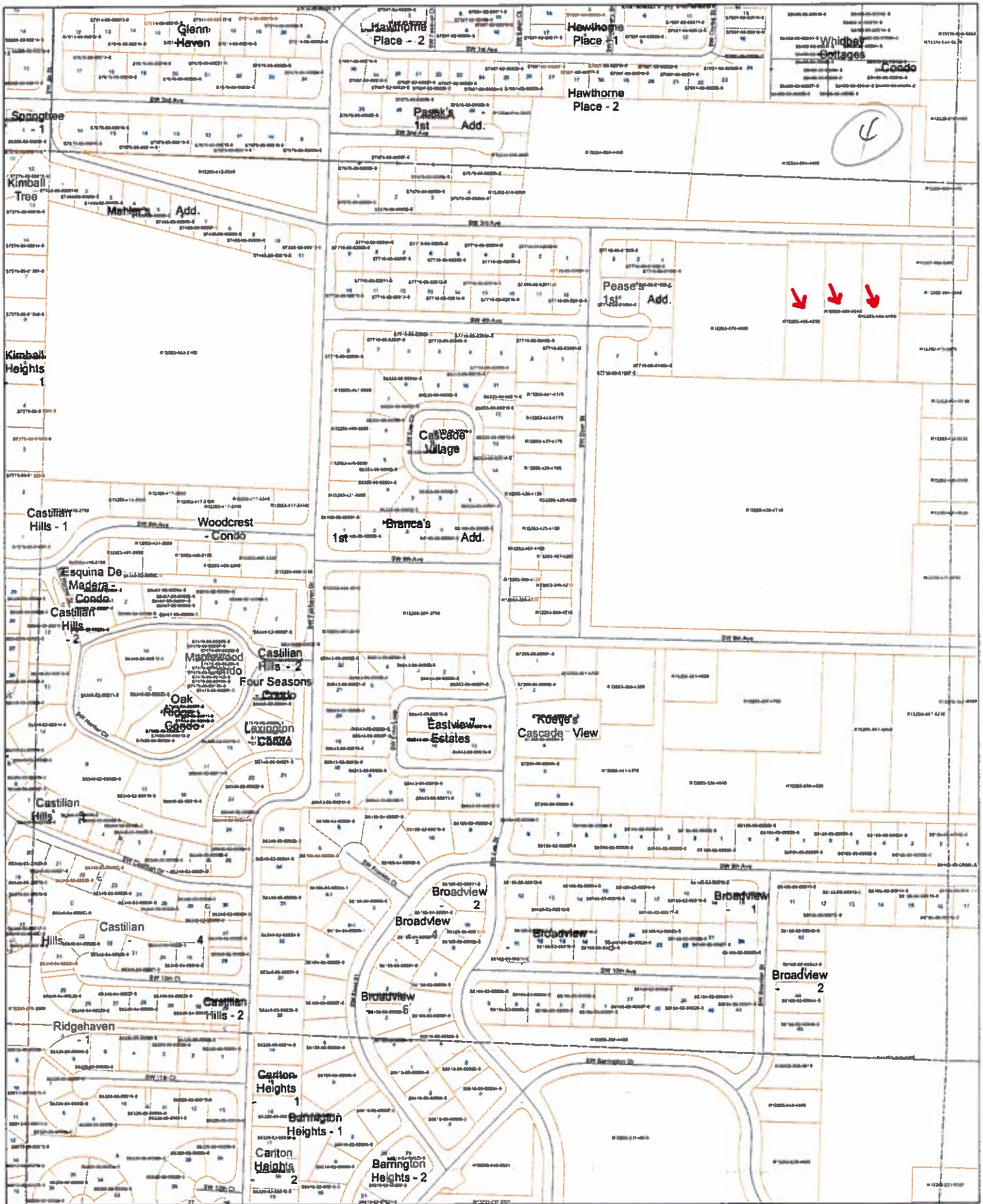
Return Name & Address:
CITY OF OAK HARBOR
865 SE BARRINGTON DR
OAK HARBOR, WA 98277

Please print or type information

Document Title(s) (or transactions contained therein): 1. EASEMENT 2. 10' SIDEWALK
Reference Number(s) – (recording number of document being assigned, released, re-recorded, etc.)
Grantor – (seller, assignor, signator) borrower 1. OAK HARBOR SCHOOL DISTRICT # 201 2. 3. Additional names on page ___ of document.
Grantee – (buyer, assignee, notice given to) lender, trustee 1. CITY OF OAK HARBOR 2. 3. Additional names on page ___ of document.
Legal Description – Abbreviated: i.e. lot/block/plat or section/township/range & quarter/quarter PORTION OF ULRICH FARM SECTION 3 TOWNSHIP 32 N R 1 E DONATION CLAIM
See page <u>1</u> for full legal.
Assessor's Tax Parcel Number R 13203 - 488 - 5060 Additional parcel numbers on page ___
The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

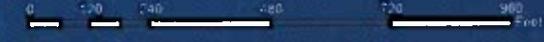
EXCISE TAX EXEMPT
JAN 07 2004

LINDA RITTE
ISLAND COUNTY TREASURER



- Legend**
- R 13102-190-1901 Geographic Number (Parcel Number)
 - 23 Platted Lot Number
 - Island County Parcels
 - Quarter Section Boundary
 - City/Town Limits
 - Roads
 - Water

NE 1/4 Sec.3 Twp.32 R.1E



These maps were created from available public records, and existing maps, which had different interpretations of the boundary lines. Some parcels have been identified as having a boundary line to the Northwest or South, while others were taken in this process maps from different sources and only as close as to the precise location of geographic features. The rest was obtained by map features to see another results from combining different map sources without field ground truthing.

DO NOT USE AS A LEGAL DOCUMENT

Map ID: 93



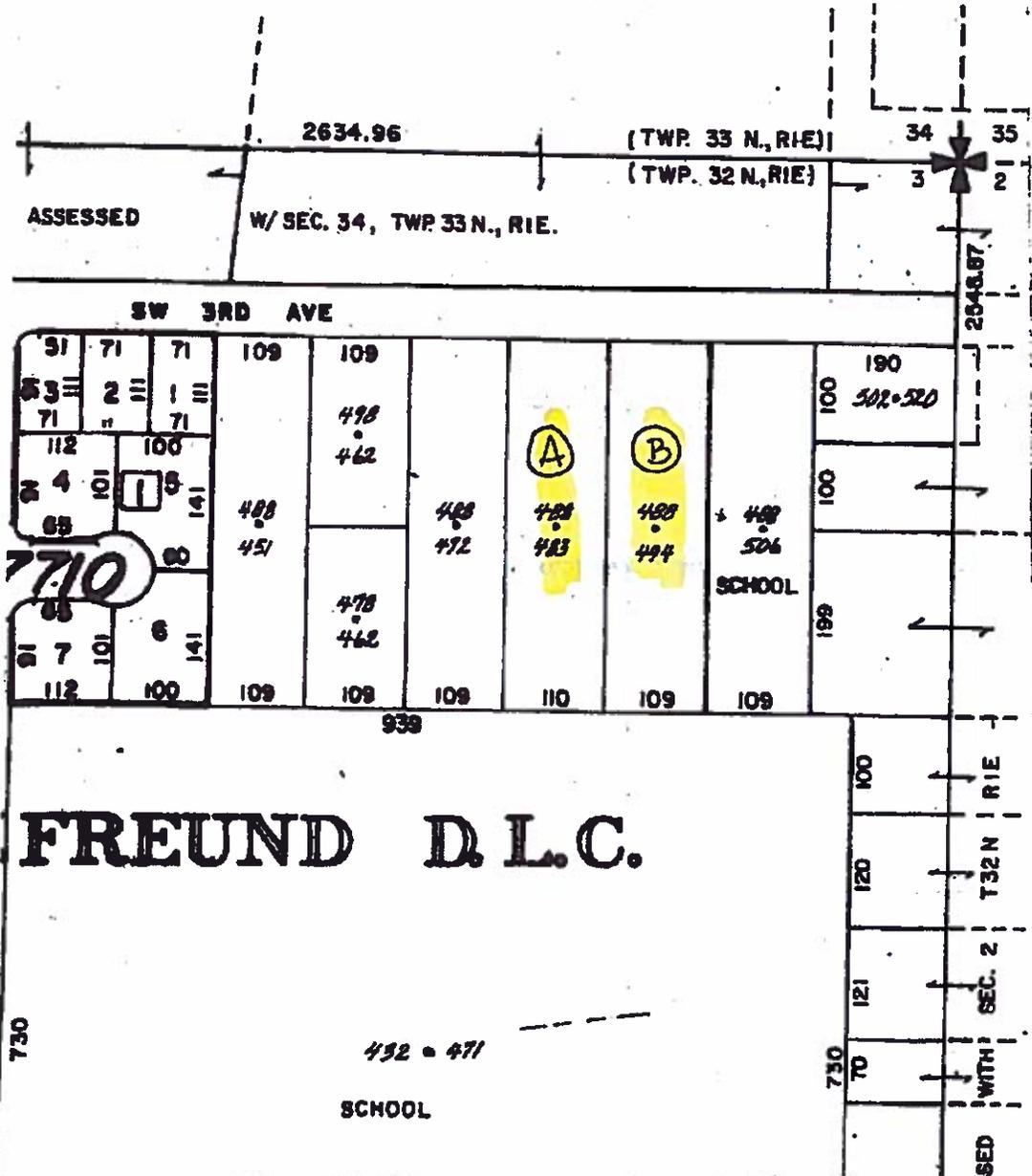
Island County Assessor's Maps
Updated 6/12/2014

Adjacent Maps by Map ID

92	93	94
90	91	90

This sketch is a courtesy of Land Title Company of Island County to assist in locating the premises. It is not based on a survey, and the company assumes no liability for variations, if any, in dimensions and locations. This map does not purport to show all highways, roads or easements affecting the property, and does not constitute a part of any commitment or policy of title insurance.

**DO NOT USE AS A LEGAL DOCUMENT
ACCURACY NOT GUARANTEED**



H

Subject Property

185 SW 3rd Avenue, Oak Harbor, WA

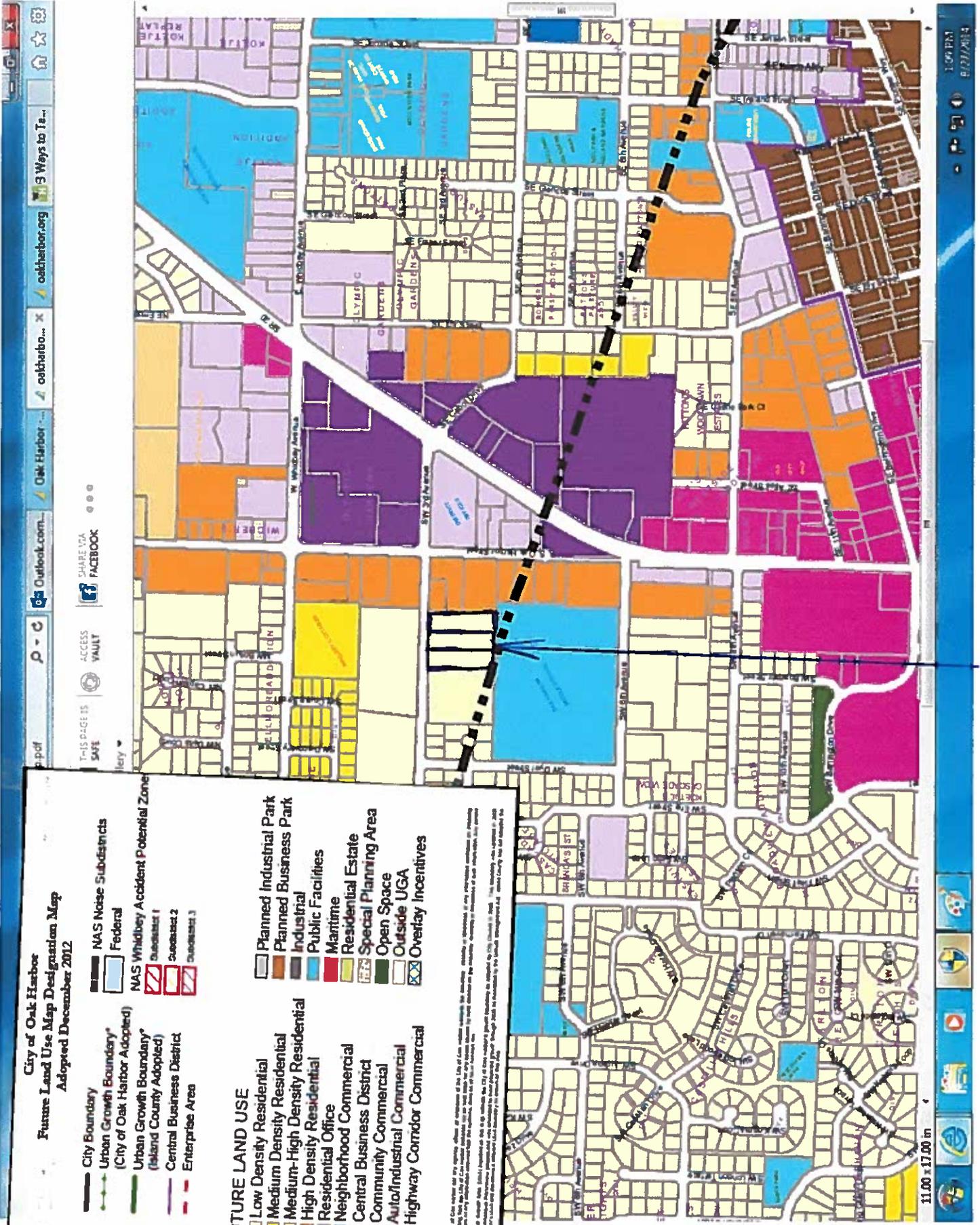


- Location of property in relation to Oak Harbor landmarks

Land Use

5.

3



□ = Subject Property

11.00 x 17.00 in

1:09 PM 8/27/2014

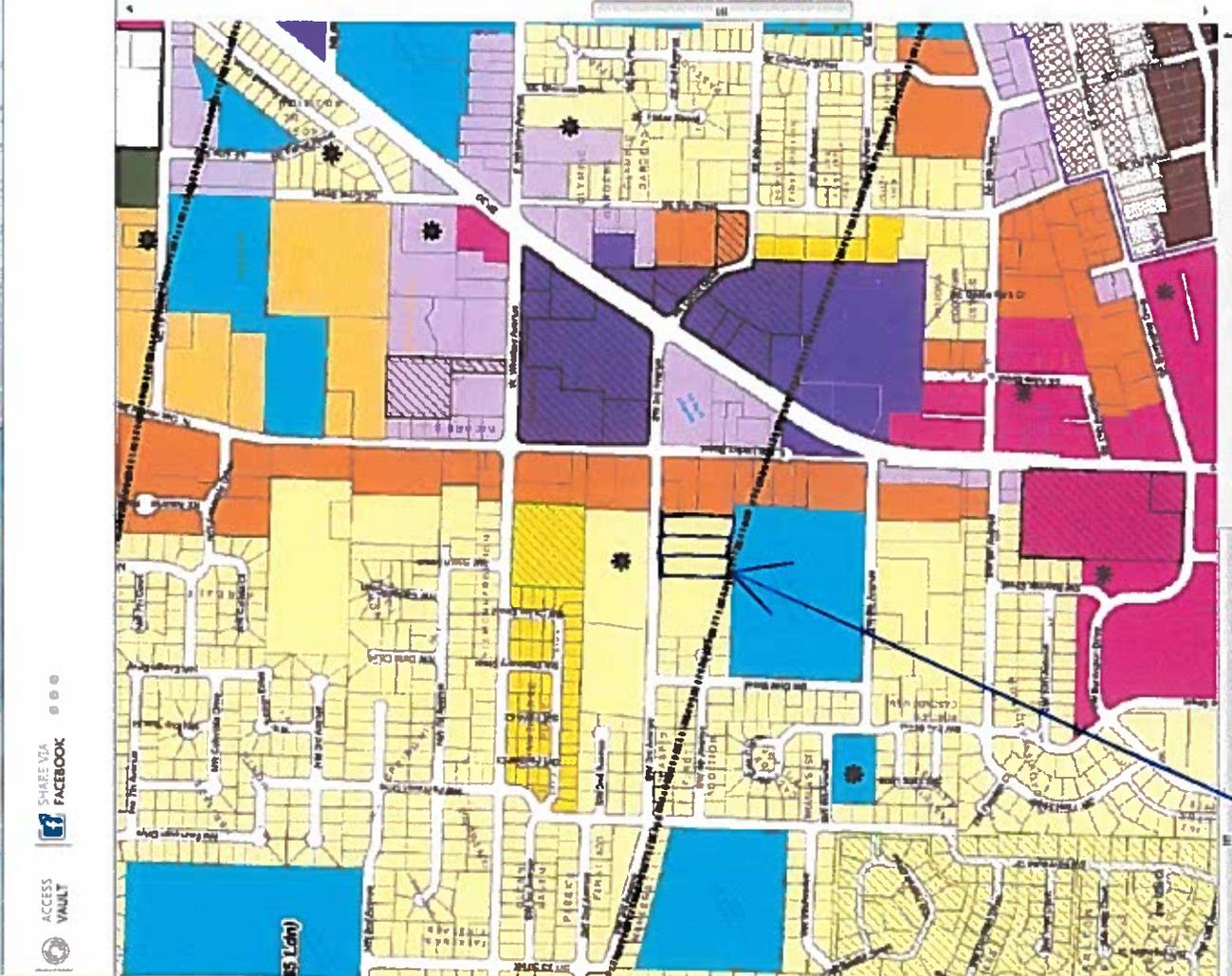
61

Zoning

Official Zoning Map - City of Oak Harbor

- City Boundary
 - Urban Growth Area Boundary* (Island County Adopted)
 - Urban Growth Area Boundary* (City of Oak Harbor Adopted)
 - Central Business District
 - Enterprise Area
 - NAS Noise Subdistricts
 - Federal
 - NAS Whidbey Accident Potential Zones
 - Subdistrict 1
 - Subdistrict 2
 - Subdistrict 3
- ZONING**
- (R-1) Single Family Residential
 - (R-2) Limited Multi-Family Residential
 - (R-3) Multi-Family Residential
 - (R-4) Multi-Family Residential
 - (R-O) Residential Office
 - (C-1) Neighborhood Commercial
 - (CBD) Central Business District
 - (CBD-1) Central Business District 1
 - (CBD-2) Central Business District 2
 - (C-3) Community Commercial
 - (C-4) Highway Service Commercial
 - (C-5) Highway Corridor Commercial
 - (PBP) Planned Business Park
 - (I) Industrial
 - (PIP) Planned Industrial Park
 - (PF) Public Facilities
 - (OS) Open Space
 - Outside City Limits
 - Planned Res. Dev. (PRD)
 - Adult Entertainment Overlay Zone
 - Contract Zoning
- Conditional Use (does not represent all on record with City)
- Dwelling Units in C-3 Prohibited North of 16th Ave.

Disclaimer: The City of Oak Harbor is not responsible for the use of this map. The City of Oak Harbor is not responsible for the use of this map. The City of Oak Harbor is not responsible for the use of this map. The City of Oak Harbor is not responsible for the use of this map.



[] = Subject Property

2

Property Specifications

Parcel	Approximate Dimensions	Area	Existing Structures	Other Improvements
A (R13203-488-4830)	Length: 400 ft., Width: 110 ft.	44,000 sq ft	Single story, 3 bedroom, 1 bath house. Attached garage of 480 sq ft. Open Slab porch. Total living sq ft of 1632. Gross area of 2112 sq ft. 480 sq ft.	Disconnected well in back yard with plans to abandon. Tapped into City water and sewer.
B (R13203-488-4940)	Length: 400 ft., Width: 109 ft.	43,600 sq ft		
School District	Length: 400 ft., Width 109 ft	43,600 sq ft		



3	1,632	44,000	\$225,000
MLS Beds	MLS Sq Ft	Lot Sq Ft	MLS List Price
1	1958	RES-NEC	05/24/2013
MLS Baths	Yr Built	Type	MLS List Date

Active Listing

Owner Information

Owner Name (LN FN):	Herman Donald R	Tax Billing Zip:	92082
Tax Billing Address:	27755 N Lake Wohlford Rd	Tax Billing Zip+4:	6736
Tax Billing City & State:	Valley Center, CA	Owner Occupied:	No

Location Information

Zip Code:	98277	Census Tract:	9706.02
School District Name:	Oak Harbor School District	Carrier Route:	C008
School District Code:	1	Zoning:	OH

Tax Information

Tax-ID:	R13203-488-4830	% Improved:	40%
Alt. Tax-ID:	13611	Tax Area:	100
Parcel ID:	R132034884830		
Legal Description:	35 FREUND DC - BG 823.85'S OF NE CR SD DC W569.75' TPB W109.68' S399' E109.68' N399' TPB		

Assessment & Tax

Assessment Year	2012	2011	2010
Assessed Value - Total	\$333,062	\$355,433	\$402,211
Assessed Value - Land	\$200,000	\$200,000	\$240,000
Assessed Value - Improved	\$133,062	\$155,433	\$162,211
Market Value - Total	\$333,062	\$355,433	\$402,211
Market Value - Land	\$200,000	\$200,000	\$240,000
Market Value - Improved	\$133,062	\$155,433	\$162,211
YOY Assessed Change (\$)	-\$22,371	-\$46,778	
YOY Assessed Change (%)	-6.29%	-11.63%	
Total Tax	Tax Year	YOY Tax Change (\$)	YOY Tax Change (%)
\$3,297	2010		
\$3,238	2012	-\$59	-1.79%
\$3,217	2013	-\$21	-0.65%

Characteristics

Lot Acres:	1.0101	Main Area:	1,632
Lot Area:	44,000	Stories:	1
Land Use:	Residential (NEC)	Bedrooms:	3
County Land Use:	Residential	Total Baths:	Tax: 2 MLS: 1.75
Year Built:	1958	Full Baths:	Tax: 2 MLS: 1
Effective Year Built:	1980	Porch:	Open Slab
Total Living Sq Ft:	1,632	Porch Type:	Open Slab
Above Gnd Sq Ft:	1,632	Garage Type:	Attached Garage
Gross Area:	2,112	Parking Type:	Attached Garage
Ground Floor Sq Ft:	1,632	Attached Garage SF:	480

Estimated Value

Courtesy of Rick Chapman

The data within this report is compiled by CoreLogic from public and private sources. If desired, the accuracy of the data contained herein can be independently verified by the recipient of this report with the applicable county or municipality.

Property Detail

Generated on 01/22/2014

Page 1 of 2

ResAVM™(1): **\$259,572**
 RealAVM™ Range: **\$212,849 - \$306,295**
 Value As Of: **01/10/2014**

Confidence Score: **71**
 Forecast Standard Deviation: **18**

(1) RealAVM™ is a CoreLogic® derived value and should not be used in lieu of an appraisal.

Listing Information

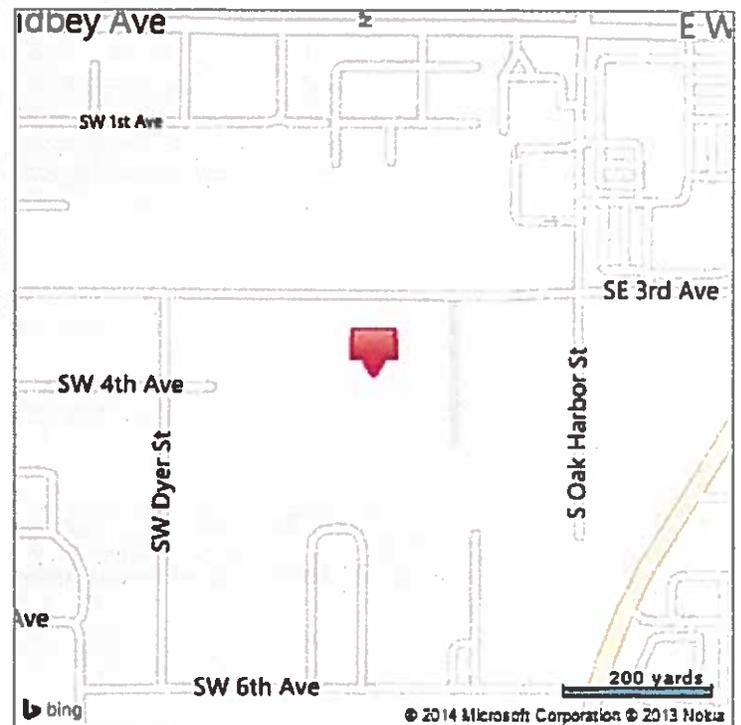
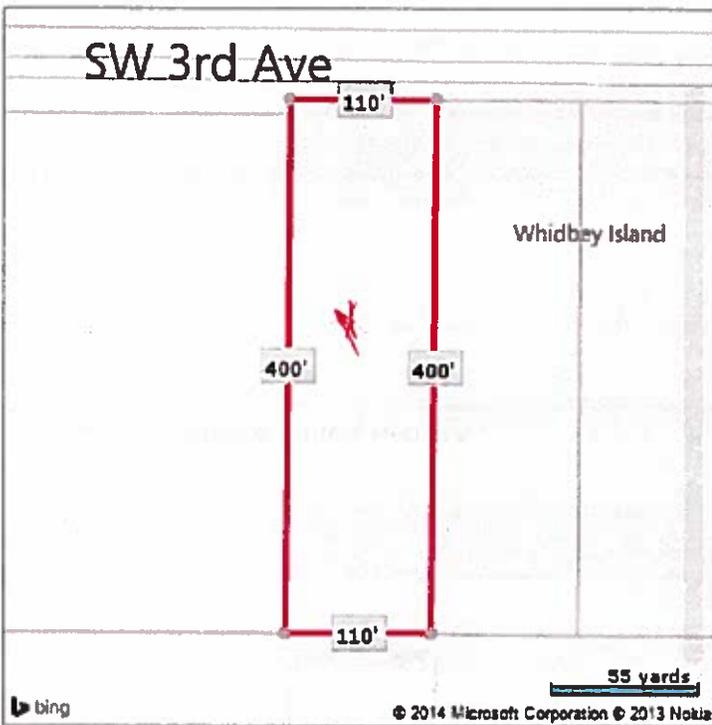
MLS Listing Number:	492225	MLS List Price:	\$225,000
MLS Status:	Active	MLS Orig. List Price:	\$312,000
MLS DOM:	244	MLS Listing Agent:	64013-Hal Hovey
MLS Status Change Date:	05/24/2013	MLS Listing Broker:	Coldwell Banker Koetje R.e.
MLS Listing Date:	05/24/2013		

MLS Listing #	492225
MLS Status	Active
MLS Listing Date	05/24/2013
MLS Listing Price	\$225,000
MLS Orig Price	\$312,000

Last Market Sale & Sales History

Owner Name (LN FN): **Herman Donald R**

Property Map



*Lot Dimensions are Estimated

Courtesy of Rick Chapman

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Property Detail

Generated on 01/22/2014
 Page 2 of 2

~~Use GIS Mapping on Island County Assessor~~



N/A	N/A	43,600	N/A
Beds	Bldg Sq Ft	Lot Sq Ft	Sale Price
N/A	N/A	RES-NEC	N/A
Baths	Yr Built	Type	Sale Date

B

Owner Information

Owner Name (LN FN):	Herman Donald R	Tax Billing Zip:	92082
Tax Billing Address:	27755 N Lake Wohlford Rd	Tax Billing Zip+4:	6736
Tax Billing City & State:	Valley Center, CA		

Location Information

Zip Code:	98277	Census Tract:	9705.00
School District Name:	Oak Harbor School District	Zoning:	OH
School District Code:	1		

Tax Information

Tax-ID:	R13203-488-4940	Parcel ID:	R132034884940
Alt. Tax-ID:	13620	Tax Area:	100
Legal Description:	34 FREUND DC - BG 823.85'S OF NE CR SD DC W460.75' TPB W109' S399' E109' N399' TPB		

Assessment & Tax

Assessment Year	2012	2011	2010
Assessed Value - Total	\$200,000	\$200,000	\$240,000
Assessed Value - Land	\$200,000	\$200,000	\$240,000
Market Value - Total	\$200,000	\$200,000	\$240,000
Market Value - Land	\$200,000	\$200,000	\$240,000
YOY Assessed Change (\$)	\$0	-\$40,000	
YOY Assessed Change (%)	0%	-16.67%	

Total Tax	Tax Year	YOY Tax Change (\$)	YOY Tax Change (%)
\$1,969	2010		
\$1,891	2012	-\$78	-3.98%
\$1,934	2013	\$43	2.26%

Characteristics

Lot Acres:	1.0009	Land Use:	Residential (NEC)
Lot Area:	43,600	County Land Use:	Residential

Estimated Value

RealAVM™(1):	\$339,560	Confidence Score:	69
RealAVM™ Range:	\$275,044 - \$404,076	Forecast Standard Deviation:	19
Value As Of:	01/10/2014		

(1) RealAVM™ is a CoreLogic® derived value and should not be used in lieu of an appraisal.

Last Market Sale & Sales History

Owner Name (LN FN):	Herman Donald R
---------------------	------------------------

Courtesy of Rick Chapman

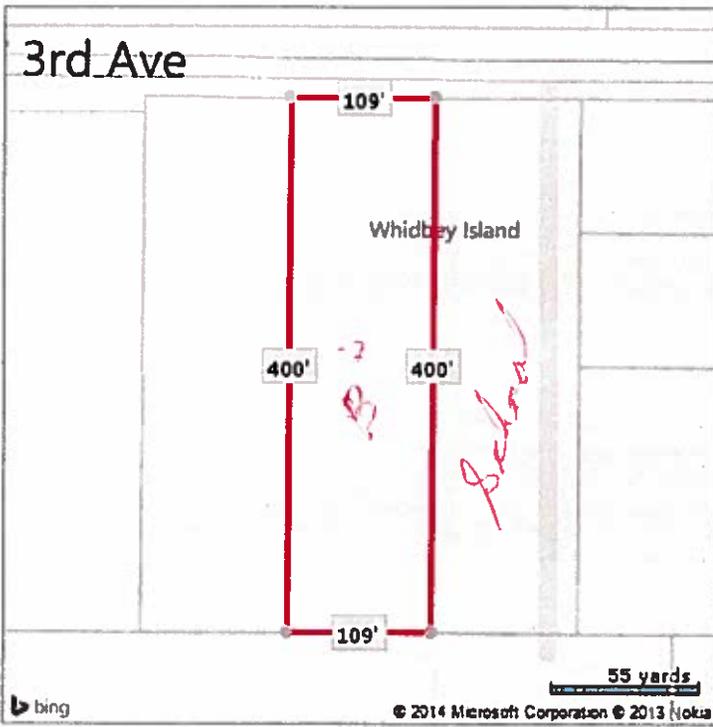
The data within this report is compiled by CoreLogic from public and private sources. If desired, the accuracy of the data contained herein can be independently verified by the recipient of this report with the applicable county or municipality.

Property Detail

Generated on 01/22/2014

Page 1 of 2

Property Map



Courtesy of Rick Chapman

The data within this report is compiled by CoreLogic from public and private sources. If desired, the accuracy of the data contained herein can be independently verified by the recipient of this report with the applicable county or municipality.

Property Detail

Generated on 01/22/2014

Page 2 of 2

Cross Property Full

185 SW 3rd Ave, Oak Harbor 98277
 MLS#: 492225 Area: 813
 County: Island

CDOM: 243 Status: **Active**
 Proj: Oak Harbor
 CMTY: Oak Harbor

LP: \$225,000
 OLP: \$312,000



Remarks

Imagine 2 flat acres in the heart of the city within walking distance to everything! House has been neglected, but has enormous potential, so fix up the current house & have a nice estate in a fantastic location. Some mature trees, large flat lawn, plenty of room for a guest house or large shop/outbuilding. Potential to split the property into multiple single family plots. Zoned R1-development potential should be confirmed with city.

Agent Remarks

Sale includes Parcel# R13203-488-4940. House has great potential, but needs roof repair and deep cleaning/updating. Sold As-Is. Prelim: Land Title O.H. Will not qualify for VA or FHA in current condition. If any signs of squatters, please call L.A. Show Info: **MLS Keybox, Power Off, See Remarks, Vacant**

Agent/Office Information

Agent:	Hal Hovey (64013)	Agent Ph:	(360) 929-0261
Office:	Coldwell Banker Koetie R.E.	Office Ph:	(360) 675-5811 x324
Co Agent:	John Chambers (18977)	Co Ag Ph:	(360) 320-2199
Co Office:	Coldwell Banker Koetie R.E.	Co Off Ph:	(360) 675-5811 x328
Commission:	3	Fax:	(360) 679-1564
Occ Name:	Vacant	Occ Type:	Vacant
Own Name:	Herman	Own Ph:	(760) 749-2321
Own City:	Valley Center, CA	Ph Show:	(000) 000-0000

Yr Built: 1958 SF Src: Island County
 SF: 1,632 Prc/SF: \$137.87
 SFF: 1,632 SFU:
 Lt Sz: 2.011 ac / 87,600 sf
 Lt Dim: 219x400
 Directions: **From SR 20 In Oak Harbor, go west on Cabot/SW 3rd (light at Island Cafe) past Oak Harbor Avenue, to 1st house on left. Backs up to Oak Harbor Middle School.**

BR: 3 BTH: 1.75 FBT: 1 QBT: 1 HBT: FP: 2

General Information

Prop Type: **Single Family** SubType: **Residential** TaxID: **R132034884830**
 School D: **Oak Harbor** List Dt: **05/24/2013** Exp Dt:
 Mnth Dues: Mntly Rnt:

Additional Property Info

Ann Taxes: \$5,151	Tax Year: 2013	Snr Expt: No	Form 17: Provided
Map Link: Yes	ShowPub: Yes	Prim Ttl: Yes	3rd Prty: None
Internet Ad: Yes	Pro Blog: Yes	Allow VI: Yes	Bank/REO: No
First Refusal:	Terms: Cash Out, Rehab Loan		Possession: Closing

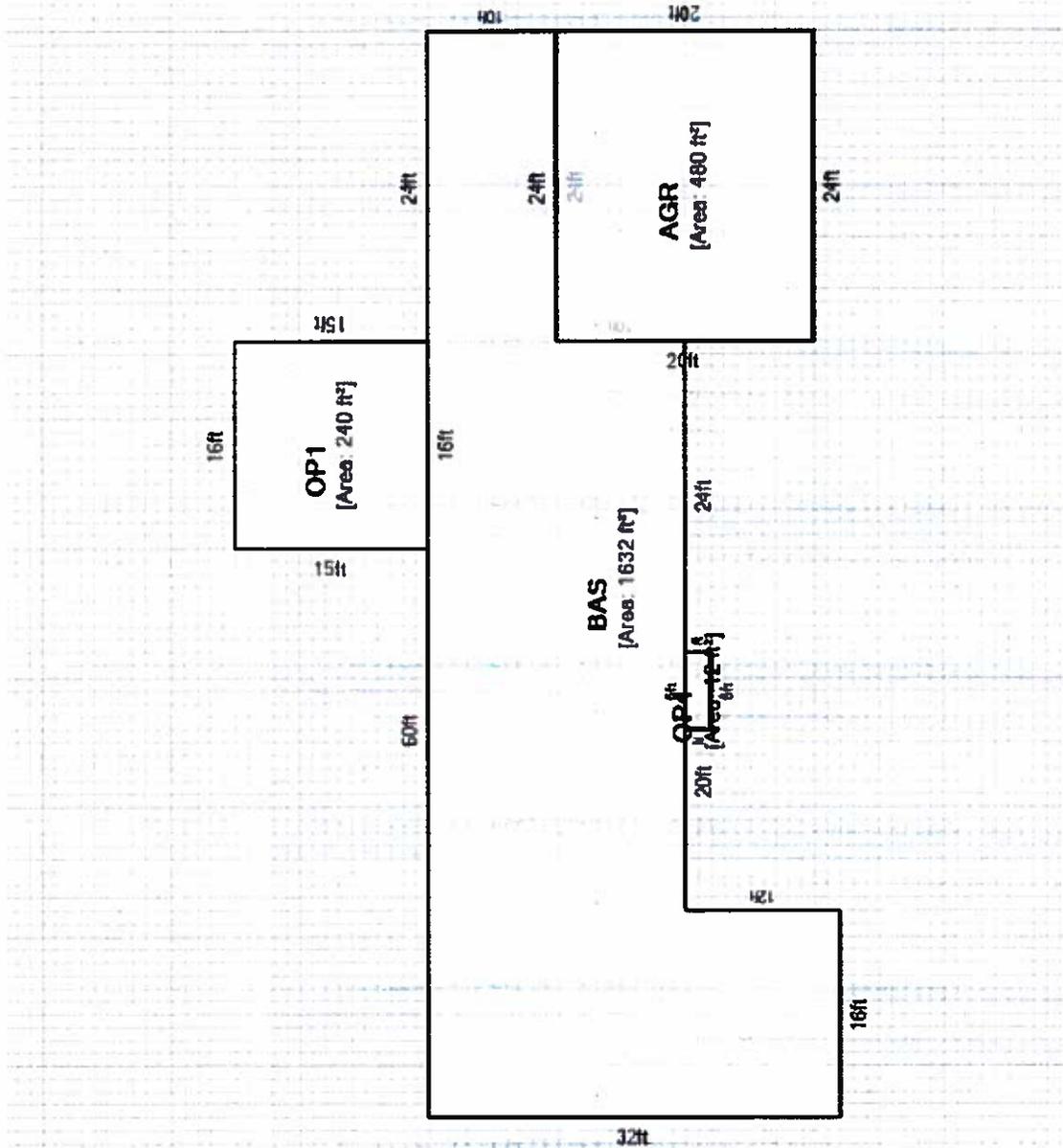
Listing Information

# Beds: 3	BldCond: Fixer	Builder:	Bld Info: Built On Lot
Bath Full: 1	Archctr:	Leased Eq:	Style Cd: 10 - 1 Story
Bath 3/4: 1	View:		Exterior: Wood
Bath 1/2:	Wtr Heatr		Foundation: Concrete Block
Fireplaces:	Typ/Loc:		Zone Jur: City
Entry: X	Zone Cd:		Tt Cvr Prk: 2
LivingRoom: X	PrkType: Garage-Attached		Energy: Electric, Wood
DiningRoom: X	Heat/Cl: Forced Air		Basement: None
Kit w ES: X	Lot Top/Veg: Level		Roof: Composition
Master Bd: X	Lot Dts: Paved Street, Sidewalk		
FamilyRoom: X	FloorCvr: Hardwood, Vinyl, Wall to Wall Carpet		
UtilityRoom: X	Appliances: Dishwasher, Range/Oven, Refrigerator		
	Interior		
	Features: Dining Room		
	SiteFeat: Outbuildings, Patio		

Utility Information

Bus Line: Yes	Bus Rt#:	Pwr Co: Puget Sound Energy
Sewer: Sewer Connected		Sewer Co: Oak Harbor
Water Src: Individual Well		Wtr Co: Individual Well
Recent: 01/10/2014 : \$ Reduced : \$312K->\$225K		

Residence at 185 SW 3rd Ave.



Tap Location

Water Meter Location
- approx. 2' South of Sidewalk

6" Sidewalk Guts

1" pipe

City's Water Main

Sewer Line in Ditch

Trench for plumbing to house approx. 35 ft from East edge of driveway

Clean out

House Sewer Service
75' 4" Sewer

- Blue Line Sewer path



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.

Utility Info
#8

Item #8

Description of existing utilities that serve the property

Utilities that don't serve property:

1. No Cascade Natural Gas (CNG)
2. No electric power lines in ground. Above ground lines yes.
3. No TV cables in ground

Pictures of locates for 185 SW 3rd Avenue



General Utility Information:

- City water main approx. 10 " from edge of road
- City sewer in center of ditch line
 - o Approx. distance to pipe from street edge= 8' 7"
 - o Approx. depth, pulled from manhole top edge= 5'

Supporting pictures





Development Services
 City Hall:
 865 S.E. Barrington Drive
 Oak Harbor, WA 98277
 (360) 279-4500
 Fax No: (360) 279-4519

Permit #: WMT-14-00050
 Issue date: 08/22/2014
 Expire date: 08/22/2015

24 Hours Notice Required for Inspections

Job Address: 185 SW 3RD AVE
 OAK HARBOR WA 98277

Parcel #: Permit Type: meter installation
 Project: NEW BUILDING SUPPLY SERVICE
 Description of work: Install 5/8" radio read meter

Applicant:	VALLEY HIGH INVESTMENTS INC	Owner:	VALLEY HIGH INVESTMENTS INC
Address:	PO BOX 399 OAK HARBOR, WA 98277	Address:	PO BOX 399 OAK HARBOR WA 98277
Phone:		Phone:	
Contractor:	C JOHNSON CONSTRUCTION INC.		
Address:	PO BOX 1467 OAK HARBOR WA 98277		
Phone:	(360) 675-4848		
License #:			

General Information:			
# Meters on Service	1	meter size	3/4
Fees:			
material 4	252.66	Labor Revised 2	26.45
tax revised 6	24.28		
Total Calculated:	303.39		
Deposits/Receipts:	0.00		
Total Due:	303.39		

City of
 Oak Harbor
 AUG 28 2014
 PAID
 Finance Department

This permit will remain valid for one year * provided that the work is commenced within 180 days after issuance. This permit will become null and void after 180 days if the approved work has not yet been commenced, or the work is suspended or abandoned for a period of 180 days after the works has commenced. This signed permit will act as a receipt of approval to the above described work detailed in the approved plans and specifications. This permit is subject to all provisions of the local, state or federal laws and ordinances governing this type of work, whether stated herein or not. I hereby certify that I have read and examined this permit and know the same to be true and correct

* Unless a different length of time is specified by the Oak Harbor Municipal Code.

[Signature]
 Applicant Signature Date 8/28/14

[Signature] 8/22/14
 Issued By: Date



Development Services
 City Hall:
 865 S.E. Barrington Drive
 Oak Harbor, WA 98277
 (360) 279-4500
 Fax No: (360) 279-4519

Permit #: WTR-14-00055
 Issue date: 08/22/2014
 Expire date: 08/21/2015

24 Hours Notice Required for Inspections

Job Address: 185 SW 3RD AVE
 OAK HARBOR WA 98277

Parcel #: **Permit Type:** Complex Water Connection Permit
Project: NEW BUILDING SUPPLY SERVICE

Description of work: 1 tap to 8" water main, 1 service from main to property line, 1 service from property line to bldg. Visual inspection required. For inspection from meter to buildings call the Building Inspection Line at 279-4569.

Applicant: VALLEY HIGH INVESTMENTS INC
Address: PO BOX 399
 OAK HARBOR, WA 98277
Phone:
Contractor: C JOHNSON CONSTRUCTION INC.
Address: PO BOX 1467
 OAK HARBOR WA 98277
Phone: (360) 675-4848
License #:

Owner: VALLEY HIGH INVESTMENTS INC
Address: PO BOX 399
 OAK HARBOR WA 98277
Phone:

General Information:

Existing Well:	Y Water Sys Dev Credit Agree	N Water Sys Dev 2	3/4
Service Size:	1 Water Agreement:	N Special Connection Charge:	2750
Number of Lots	1 Waterline less than 100 ft	N Abandon Well:	Y
Perm/Temp	PERM Water Availability Form:	N Type of Use:	RES
Water Meter Size	3/4 New Connection	1 Wat.Meter/Setter/Box Purch	N
No. of Water Taps	1 Build Supply Service Inspec	1 irrigation meter	N
deduct meter	N Existing Water Meter:	N Bill of Sale Required?	N
Main Size:	8 Utility Mainline Extension:	N Service Location:	OAK
No. of 3/4" Water Meters	1 Water Meter to be upgradec	N # Meters on Service	1

Fees:

Water Main Tap Fee	38.00	Special Connection Charge-WTR	2,750.00
Water Service Inspec2	75.00	Build Supply Service Insp Fee	75.00
Water Sys Dev Fee Rev1	3,081.00	3/4" Water Service Deposit	600.00

Total Calculated: 6,619.00
 Deposits/Receipts: 0.00
 Total Due: 6,619.00

City of
 Oak Harbor

Conditions of Approval: Special Connection Charge of \$2,750.00 assessed per OHMC 13.28

AUG 28 2014

Disconnect from well must be inspected. Contact Tim Shelley at 279-4763 for inspections.

PAID

Asbuilt required at time of inspection.

Finance Department

There is a likelihood of encountering cultural resources at this construction site. A signed copy of the Unanticipated Discoveries Protocol shall be kept onsite.

This permit will remain valid for one year * provided that the work is commenced within 180 days after issuance. This permit will become null and void after 180 days if the approved work has not yet been commenced, or the work is suspended or abandoned for a period of 180 days after the works has commenced. This signed permit will act as a receipt of approval to the above described work detailed in the approved plans and specifications. This permit is subject to all provisions of the local, state or federal laws and ordinances governing this type of work, whether stated herein or not.

I hereby certify that I have read and examined this permit and know the same to be true and correct

* Unless a different length of time is specified by the Oak Harbor Municipal Code.

Julia Tucker Co. Rep 8/28/14
 Applicant Signature Date

[Signature] 8/22/14
 Issued By: Date

AFTER RECORDING RETURN TO:

City of Oak Harbor
865 S.E. Barrington Drive
Oak Harbor, WA 98277

**CITY OF OAK HARBOR
WATER METER EASEMENT**

Grantor: Valley High Investments, Inc.
Grantee: CITY OF OAK HARBOR
Short Legal: 35 FREUND DC - BG 823.85'S OF NE CR SD DC W569.75' TPB W109.68'
S399' E109.68' N399' TPB
Tax Parcel: R13203-488-4830

THIS INDENTURE made this 28th day of August, 20 14, between Valley High Investments, Inc., hereinafter referred to as "Grantor;" and the CITY OF OAK HARBOR, a municipal corporation of the State of Washington, hereinafter referred to as "Grantee";
WITNESSETH:

WHEREAS, Grantor is the owner of certain lands and premises situated in the County of Island, State of Washington described as follows:

See **EXHIBIT A**
attached hereto and incorporated herein by this reference

and,

WHEREAS, Grantee is desirous of acquiring certain rights and privileges over, under, through, across, in, upon and above said lands and premises;

NOW, THEREFORE, Grantor, for valuable consideration, the adequacy and receipt of which is hereby acknowledged, hereby conveys and grants to the Grantee, its successors and assigns and its contractors, agents, permittees and licensees, the perpetual right, privilege and authority to install, construct, alter, improve, repair, operate and maintain a water meter, water lines, pipes and appurtenances over, under, through, across, in, upon and above the following described lands and premises situated in the County of Island, State of Washington, to-wit:

Water Meter Easement - 1
OH0016 water Meter

An easement as described in **Exhibit B** attached hereto and incorporated herein by this reference

or as located upon the **EXHIBIT A** property

Together with the right of ingress to and egress from said lands across adjacent lands of the Grantor, for the purposes of meter reading, inspecting, constructing, reconstructing, repairing, renewing, altering, changing, patrolling and operating said water meter and pipelines lines, and updating said facilities and appurtenances to present and future technological standards, and the right at any time to remove said lines and appurtenances from said lands; provided, nothing herein shall be deemed to obligate Grantee to so do.

The Grantor shall not erect any buildings, structures, patios, or other construction of any nature on said easement.

The Grantor covenants to and with the Grantee that Grantor is lawfully seized and possessed of the land aforesaid; has a good and lawful right and power to sell and convey same; that same is free and clear of encumbrances, except as herein indicated; and that Grantor will forever warrant and defend the title to said easement and the quiet possession thereof against the lawful claims and demands of all persons whomsoever. This conveyance shall be a covenant running with the land, and shall be binding on the Grantor and its heirs, successors and assigns forever.

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written.

GRANTOR:

Valley High Investments, LLC

Julia Taylor
Company Representative

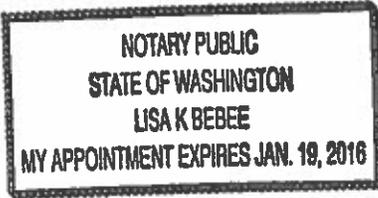
Water Meter Easement - 2
OH0016 water Meter

INDIVIDUAL NOTARY:

STATE OF WASHINGTON)
)ss.
COUNTY OF ISLAND)

I certify that I know or have satisfactory evidence that Julia Price
is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they
signed this instrument and acknowledged it to be his/her/their free and voluntary act for the
uses and purposes mentioned in the instrument.

DATED this 22nd day of August, 2014



Lisa K Bebee
Lisa K Bebee
(Legibly print name of notary)
NOTARY PUBLIC in and for the State of
Washington, residing at Oak Harbor WA
My commission expires Jan. 19, 2016

REPRESENTATIVE NOTARY:

STATE OF WASHINGTON)
)ss.
COUNTY OF ISLAND)

I certify that I know or have satisfactory evidence that _____
is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they
signed this instrument, on oath stated that he/she/they was/were authorized to execute the
instrument and acknowledged it as the _____
of _____ to be the free and voluntary act
of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____.

(Legibly print name of notary)
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

Water Meter Easement - 3
OH0016 water Meter

**EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY**

That portion of the Ulrich Freund Donation Claim, located in Section 3, Township 32 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at a point 823.85 feet South of the Northeast corner of the Ulrich Freund Donation Claim;

Thence West 569.75 feet to the true point of beginning;

Thence West 109.68 feet;

Thence South 399 feet;

Thence East 109.68 feet;

Thence North 399 feet to the true point of beginning;

Situate in Island County, Washington

**EXHIBIT B
LEGAL DESCRIPTION OF EASEMENT**

That portion of the Ulrich Freund Donation Claim, located in Section 3, Township 32 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at a point 823.85 feet South of the Northeast corner of the Ulrich Freund Donation Claim;

Thence West 569.75 feet to the true point of beginning;

Thence West 109.68 feet along the Southern Right of Way line for SE 3rd Avenue;

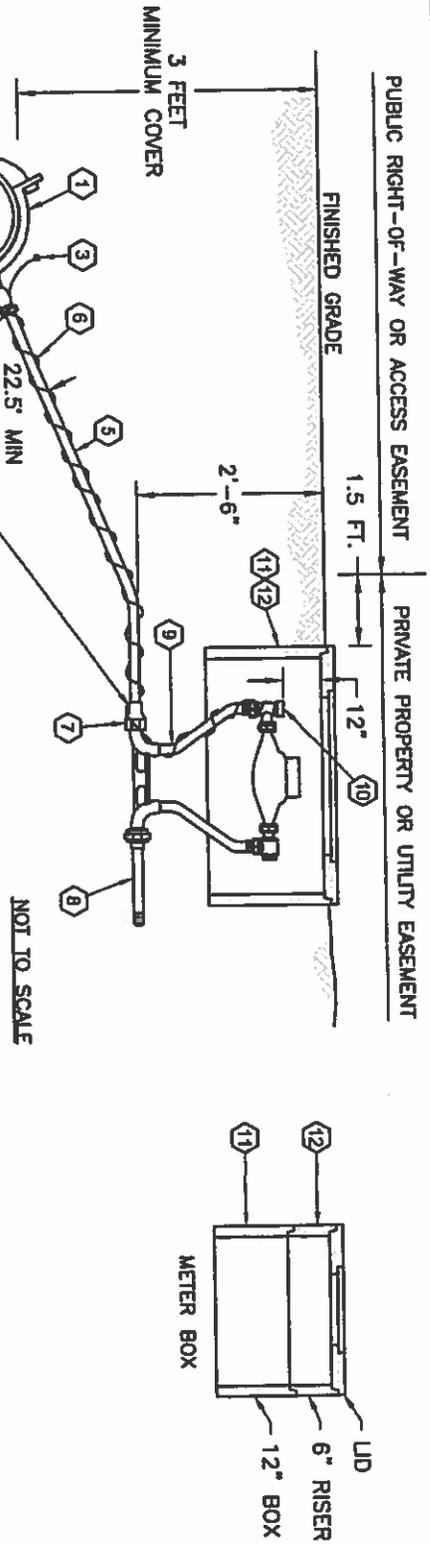
Thence South 10 feet along the West line of the property described in Exhibit A;

Thence East 109.68 feet to the East line of the property described in Exhibit A;

Thence North 10 feet along the East line of the property described in Exhibit A to the true point of beginning.

Situate in Island County, Washington

Contractor Info

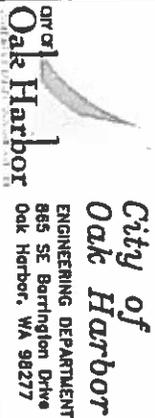


SINGLE 5/8" X 3/4" METERED SERVICE

NO.	ITEM	DESCRIPTION	QUANTITY	PART NUMBER	BRAND
1	SADDLE	ALL BRASS BY 1" IPT TAP	1	S91-SERIES / 202B SERIES	FORD
2	CORP STOP	1" IPT (M) X PEP GU	1	F-1101-4G-NL	FORD
3	WIRE CONNECTOR	3-WAY SEALED/TAPE	1	903 / 6147	IBS
4	STIFFENERS	SS INSERT FOR 1" PEP IPS PIPE	2	# 72	
5	PIPE	1" IRON PIPE SIZE PEP 200PSI	AS NEEDED	PE3408	
6	LOCATE WIRE	12 GAUGE COPPER, BLUE	AS NEEDED		
7	ADAPTER	3/4"(M) IPT X 1" PEP GU	1	C86-34-G-NL	FORD
8	NIPPLE	3/4" IPT X 1PT X 1/2" BRASS	1	3007N120	
9	METER SETTER	3/4" IPT X 1PT X 1/8" W/ DBL CHECK	1	VH-T72-18W-1133-NL	FORD
10	METER LOCK	FRAMATIC METER LOCK	1		
11	METER BOX *	CONC W/ STEEL READER	1	#1 W/ STL RDR, CONC LID	BERG V.L.T
12	METER BOX RISER	6" CONCRETE	1	#1	BERG V.L.T

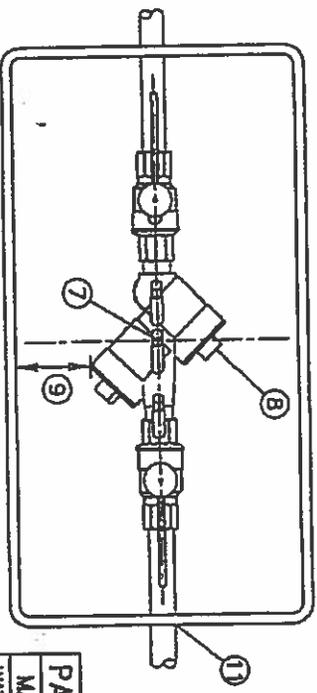
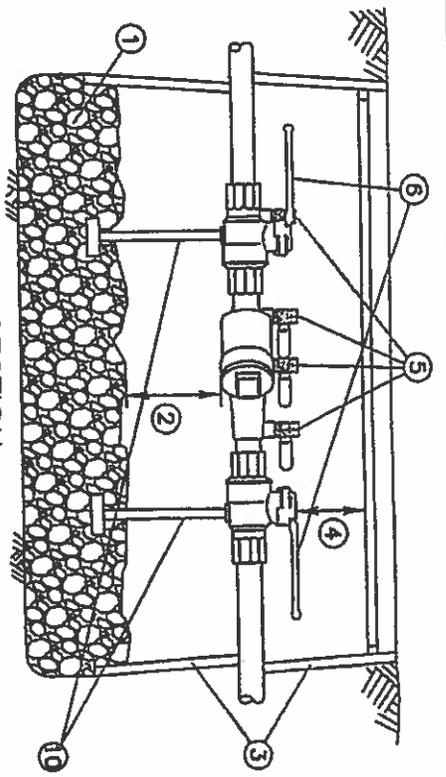
NOTE: DETAIL IS SCHEMATIC. ACTUAL ITEM SPECIFIED IN MATERIAL LIST MAY VARY IN STYLE OR APPEARANCE.

- NOTES:**
- CONTRACTORS SHALL USE THE MATERIAL LIST SHOWN. SUBSTITUTION REQUESTS WILL BE CONSIDERED BUT MUST BE APPROVED BY THE CITY PRIOR TO INSTALLATION.
 - AN OLYMPIC FOUNDRY SM-29 TRAFFIC BOX SHALL BE USED FOR METERS SET IN PAVED AREAS, DRIVEWAYS, SIDEWALKS, ETC.
 - ALL SETTERS SHALL BE SET FLUSH, PLUMB, AND CENTERED IN THE METER BOX.
 - INSTALL WATER SERVICE LINE PERPENDICULAR TO MAIN. CORPORATION STOP TO BE IN FULL ON POSITION PRIOR TO PLACEMENT OF BACKFILL.
 - SERVICE LINE AND SETTER SHALL BE FLUSHED FOR 1-MINUTES. MUD, FOREIGN MATERIALS OR CONTAMINANTS SHALL NOT BE PERMITTED TO ENTER ANY TUBING OR FITTINGS. A TIGHT FITTING CAP SHALL BE INSTALLED OVER OPEN END OF FITTING (MAKE WATER TIGHT) IF SERVICE CONNECTION IS NOT COMPLETE TO BUILDING.
 - WATER SERVICE FROM THE METER TO THE BUILDING SHALL BE INSTALLED IN ACCORDANCE WITH THE UNIFORM PLUMBING CODE (UPC).
 - BACK FLOW PREVENTION DEVICES SHALL BE INSTALLED FOR ALL IRRIGATION CONTINUATION OF THE CITY WATER SUPPLY. METER BOXES SHALL BE SET ON A SAND BASE THAT IS PLACED TO WITHIN 18" OF FINISH GRADE.
 - SERVICE LINE SHALL HAVE A MINIMUM OF 4" DEPTH OF SAND BEDDING ABOVE AND BELOW THE PIPE.
 - TOP OF LID SHALL BE 2" ABOVE FINISHED GRADE EXCEPT WHEN IN HARD SURFACE.
 - ALL BRASS AND BRONZE WATER SYSTEM COMPONENTS USED IN POTABLE WATER SUPPLY SYSTEMS, EXCEPT FOR SERVICE SADDLES, FIRE HYDRANTS, AND DISTRIBUTION MAIN GATE VALVES 2" IN DIAMETER OR LARGER, SHALL BE DEMONSTRATED TO HAVE BEEN TESTED AND CERTIFIED AS "LEAD-FREE" IN COMPLIANCE WITH THE REDUCTION OF LEAD IN DRINKING WATER ACT.



**SINGLE WATER SERVICE
5/8 X 3/4-INCH METER**

ACAD-W-3A 5_8 X 3_4-inch water meter.dwg



NOTES:

- ① IF DAYLIGHT DRAIN SYSTEM CANNOT BE PROVIDED THEN INSTALL A 6" MINIMUM LAYER OF 1" ROUND WASHED GRAVEL AT THE BOTTOM OF THE BOX.
- ② MINIMUM OF 6" BETWEEN LOWEST POINT OF DEVICE AND DRAIN ROCK.
- ③ TWO NO. 2 METER BOXES STACKED ON TOP OF EACH OTHER OR APPROVED EQUAL. MINIMUM 14" X 20" LD OPENING.
- ④ MINIMUM OF 6" AND A MAXIMUM OF 12" DISTANCE BETWEEN UNDERSIDE OF LD AND HIGHEST POINT OF THE DEVICE.
- ⑤ THE DEVICE MUST BE EQUIPPED WITH FOUR RESILIENT SEATED TEST COCKS WITH PLUGS INSTALLED. THE ASSEMBLY MUST ALSO BE INSTALLED WITH THE TEST COCKS FACING UP OR TO ONE SIDE. PLUGS SHALL BE THREADED BRASS.
- ⑥ THE DEVICE MUST ALSO BE EQUIPPED WITH TWO RESILIENT SEATED SHUT OFF VALVES.
- ⑦ CENTER DEVICE IN BOX.
- ⑧ Y-PATTERN D.C.V.A. SHOULD BE INSTALLED ON SIDE WITH TESTCOCKS FACING UPWARDS.
- ⑨ A MINIMUM DISTANCE OF 6" IS REQUIRED BETWEEN THE SIDE OF THE BOX AND THE TEST COCKS WHEN THEY ARE INSTALLED SIDE WAYS.
- ⑩ SUPPORTS WILL BE REQUIRED ON 2" AND LARGER DEVICES AS SHOWN.
- ⑪ SEAL PIPE CUTOUTS AND UNDERLAY DRAIN ROCK WITH WEED CONTROL FABRIC OR POLYETHYLENE TO PREVENT SOIL INTRUSION.

PARTIAL LISTING OF STATE APPROVED DOUBLE CHECK VALVE ASSEMBLIES

MAKE	MODEL	SIZES	SHUTOFFS
WATTS	U007M1QT	3/4" OR 1"	- WATTS FIGURE FBV (FBV-E)-QT OR WATTS SERIES 6080 (& 6080-E)-QT
WATTS	950XL	3/4"	- FORTUNE FIGURE 620-QT (FORMERLY FIGURE 601 PRIVATE LABELED AS: AMES, BUCKNER, FEBCO, FLOMATIC, HERSEY AND WILKINS)
WILKINS	975XL	3/4" 1" 1 1/2" OR 2"	- NIGBO BALL VALVES (FEBCO SERIES 622-QT & WILKINS SERIES 855-QT)
WILKINS	975XL	1 1/4"	- FORTUNE FIGURE 620-QT (FORMERLY FIGURE 601 PRIVATE LABELED AS: AMES, BUCKNER, FEBCO, FLOMATIC, HERSEY AND WILKINS)
WATTS	995QT	3/4" 1" 1 1/4" OR 1 1/2"	- FORTUNE FIGURE 620-QT (FORMERLY FIGURE 601 PRIVATE LABELED AS: AMES, BUCKNER, FEBCO, FLOMATIC, HERSEY AND WILKINS)

APPROVED
City of Oak Harbor
Engineering Dept.
 8-8-06
 Date

GENERAL REQUIREMENTS:

1. THE D.C.V.A. CHOSEN MUST BE ON THE MOST RECENT WASHINGTON STATE APPROVAL LISTING.
2. THE D.C.V.A. MUST BE TESTED BY A WASHINGTON STATE CERTIFIED BACKFLOW ASSEMBLY TESTER AT THE TIME OF INSTALLATION, ANNUALLY, AND WHEN MOVED OR REPAIRED.
3. ALL INSTALLATION MUST MEET MANUFACTURERS SPECIFICATIONS AND THE MINIMUM STANDARDS OF THE U.P.C. INSTALLATION INSPECTION BY CITY OF OAK HARBOR IS REQUIRED BEFORE WATER SERVICE IS ACTIVATED.

City of Oak Harbor
 ENGINEERING DEPARTMENT
 865 SE Barrington Drive
 Oak Harbor, WA 98277

DOUBLE CHECK VALVE ASSEMBLY - 0.75-2.5"

ACAD-W-11 Double Check Valve .75 to 2.5 inch.dwg

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 obtained from the aerial photography or any other source. Any person or entity using the information for any purpose other than that for which it was provided is doing so at their own risk. The City of Oak Harbor is not responsible for any loss or damage caused by such reliance on the accuracy of the information.



Approx. Location of well

Disconnect Location

CITY OF OAK HARBOR

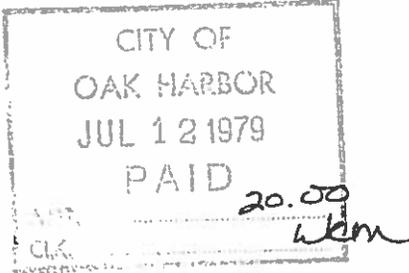
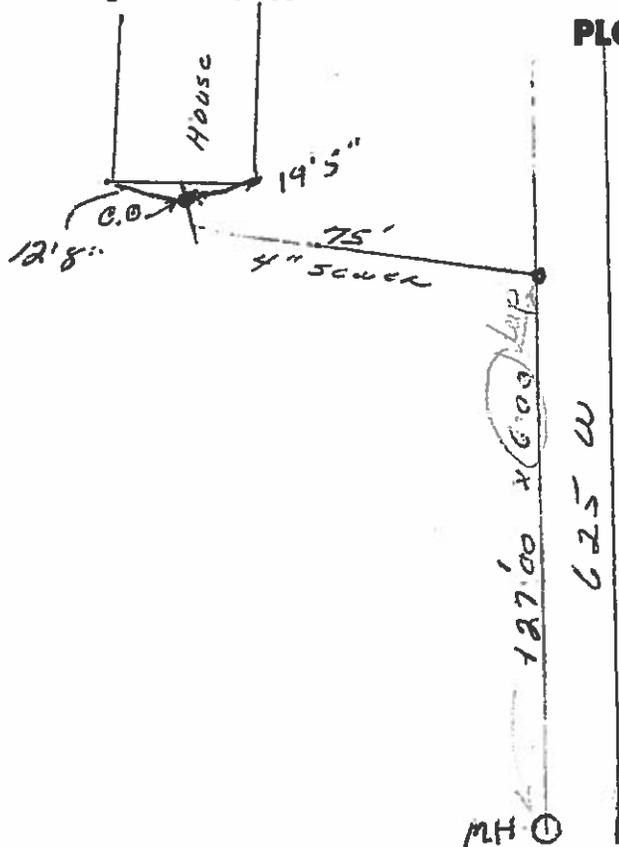
APPLICATION FOR BUILDING SEWER PERMIT

OWNER Don Howard Address

Lot.....Block.....Subdivision.....Street.....

Permit No.....Fee \$.....Fee Receipt No.....Date.....

The undersigned hereby applies for permission to construct a building sewer as indicated hereon:

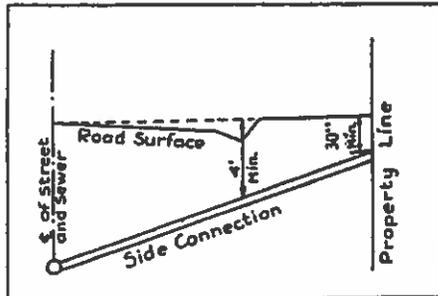


I hereby certify that the above connection has been made as shown.

CITY ENGINEER:.....Date:.....

PERMISSION IS HEREBY GRANTED to construct a building sewer as above applied for, on the following conditions:

1. That an experienced Building Sewer Contractor must be employed to construct building sewer on the public thoroughfare above indicated.
2. Sewer pipe must have at least 30 inches cover at property line, (see sketch), and 18 inches on private property; minimum grade, 1/4 inch per foot. No bend sharper than 1/4 will be permitted without a clean out.
3. Backfill all excavated earth into trench after inspection and approval by City Engineer, by tamping or water settling, and clean up street on completion of work.
4. All ditches to be safe-guarded with lanterns and barricades and such other precautions necessary to protect the public.
5. The owner and his contractor hereby agree to accept full responsibility for any damage which might result from the prosecution of this work.
6. The owner agrees to maintain the building sewer in accordance with the ordinance and regulations of the city of Oak Harbor and to permit entry by City employes for inspection.



Owner:.....

By:.....

Contractor:.....

CITY ENGINEER
CITY OF OAK HARBOR



Item #9

Description of street and sidewalks adjacent to the property

Dimensions:

1. Sidewalk width= 5'
2. Individual sidewalk square length= 5'
3. Sidewalk depth= 4 ½ "
4. Curb= N/A. Road is flush with grass that transitions into storm water ditch.
5. Width of road= 26' 6"
6. Width of ditch, entire grass area that constitutes ditch= approx. 14' 8"
7. Width of ditch, from where tapering off/slope begins= approx. 7'

6. Pictures



7. Pictures



Description of Adjacent Uses	Proximity to the Subject Property	Shared Easements
<p>Oak Harbor Assembly of God Church is used for congregation of church goers and a place for prayer. They offer various programs for children and adults that allow the spiritual to connect</p>	<p>The building is approximately 288 feet from the NW corner of parcel A</p>	
<p>Oak Harbor Middle School is a location where children from grade six to eight receive an education</p>	<p>The school facility is approximately 30 feet away from the southern edge of parcel B.</p>	
<p>Directly to the east of parcel B is an additional parcel owned by the Oak Harbor School District. Currently there is an access road that leads from Sw 3rd Ave. to the back of the school. Other than the road there are no additional structures on the parcel.</p>	<p>The road starts approximately 64 feet from the easterly edge of parcel B.</p>	
<p>To the north across SW 3rd Ave. lies another church. The First Reformed Church is considerably larger than the one that lies to the west but offers very similar services to the citizens of Oak Harbor.</p>	<p>The church structure is approximately 135 feet from the northern boarder of Parcel A.</p>	
<p>To the east of the school district parcel of the northern portion lies Oak Grove Apartments. This is an R-4 zone, designated for Multi-Family residential. This is the highest density in the residential category.</p>	<p>The school parcel butts up to the apartment complex and allows for side parking for some of the residents.</p>	
<p>In the southern portion of the school district parcel to the east lies an additional apartment complex, Idylewood Apartments. Again this adjacent parcel is in the R-4 zoning district.</p>	<p>The building starts approximately 80 feet from the eastern edge of the school district parcel. In between is unused grassland presumably to provide a lawn for the residents along with additional bushes.</p>	



Properties Located Within 300 feet of 3rd Avenue Parcels

Actual Property Address	Parcel I.D.	Owner's Address	Owner	Direction From Parcels
264 SW 3rd Ave., OH, WA, 98277	R13334-004-4800	250 SW 3rd Ave., OH, WA, 98277	First Reformed Church	N
2-114 SW 3rd Ave., OH, WA, 98277 Note: No street address, east of above	R13334-004-4460	250 SW 3rd Ave., OH, WA, 98277	First Reformed Church	NE
151 S. Oak Harbor Rd., OH, WA	R13335-019-0650	1218 3rd Ave. Suite 2201, Seattle WA, 98101	Commodore Associates	NE
319 SW 3rd Ave., OH, WA, 98277	R13203-476-4690	319 SW 3rd Ave., OH, WA, 98277	Oak Harbor Assembly of God Church	W
79 SW 3rd Ave., OH, WA, 98277	R13202-502-5200	405 Fieldstron Rd. #105, Bellingham, WA, 98225	Harborland LTD Partnership	E
65 SW 3rd Ave., OH, WA, 98277	R13202-494-0040	405 Fieldstron Rd. #105, Bellingham, WA, 98225	Harborland LTD Partnership	E
395 S. Oak Harbor St., OH, WA, 98277	R13202-478-0070	1234 Lombardy Ln. OH, WA, 98277	Walden Family LLC	E (from S portion)
455 S. Oak Harbor St., OH, WA, 98277	R13202-464-0030	PO Box 2622 OH, WA, 98277	Churchill, George	SE
495 S Oak Harbor St., OH, WA, 98277	R13202-452-0030	495 S Oak Harbor St., OH, WA, 98277	Oak Harbor baptist Church	SE
150 SW 6th Ave., OH, WA, 98277	R13203-432-4710	200 SE Midway Blvd. OH, WA, 98277	Oak Harbor School District #201	S
No Address, parcel directly East of ours, adjacent to parcel B	R13203-488-5060	200 SE Midway Blvd. OH, WA, 98277	Oak Harbor School District #201	E
50 SW 6th St., OH, WA, 98277	R13202-440-0030	PO Box 737, OH, WA, 98277	Southern Baptist Church of Oak Harbor	SE

Included in Application

Item #12- Rationale for Amendment

This document provides rationale for the proposed minor amendment to the land use element of the Comprehensive Plan. The zoning change of the parcel located at 185 SW 3rd Avenue along with the two parcels directly to the east provides many benefits to the city of Oak Harbor and its citizens. The benefit is primarily accomplished by satisfying various goals set forth by the city, county, and state of Washington. The remainder of the document will display how the goals are met and will lay out how altering the current land use and zoning designations of the properties will create utility for many different groups.

The proposed amendment satisfies four out of five goals stated under the Washington Sate Growth Management Act (GMA) and partially meets the fifth goal. The rezone of the property will definitely reduce urban sprawl, goal one set under the GMA. Instead of annexing more land into the Urban Growth Area of the city to combat expected population growth the resulting increase in density from the proposed change will increase density with no additional land needed. This is an example of infill, which in turn will promote community growth. All but three of the parcels currently in the UGA designated for residential use are low density residential and it would require annexation of an additional acre to the UGA in order to accomplish the same result as the zone change

The additional land that is spared from annexation to the UGA as a result of the approval of our amendment will also result in partially satisfying goal four, open space and recreation. Keeping higher density near the city core will encourage conservation of fish and wildlife habitat, an aspect that makes our city very unique. Although the next piece of land added to the UGA may not have significant effects on this goal, deciding to add land instead of increasing density will eventually be detrimental to the environment animals rely on to flourish and has a negative impact on the rural character of Island County.

Since the parcels in this application are located very close to Community Commercial, Highway Corridor Commercial, Residential Office, Public Facilities and the Central Business District it easily accomplishes goals one and three of the GMA. This land provides easy access to facilities and services citizens utilize everyday and it is only logical to have more people living within the heart of the city. Having a higher density near all these businesses creates convenience for the citizens as well as increases the cliental base and economic opportunity for businesses in the area. Many different public facilities such as schools are within reasonable walking distance, which gives citizens the benefit of choice and reduces transportation requirements along with congestion on the roadways. The adjacent land to theses parcels is a middle school to the south and churches to the west and east. Public facilities are a stone throw away; Oak Harbor High School roughly eight blocks, Broad View Elementary School about four and Spring Tree Park three. It is safe to say this area has adequate public facilities and services, more than enough to not compromise those services with the relatively small change in density.

The fifth goal of citizen participation and coordination is accomplished automatically through the amendment process. The amendment process allows

citizens access to information on what the land use alteration will do. In addition the schedule allows them the opportunity to contribute by providing comment as well as having the option to sit in on a public hearing concerning the amendment, all items accomplished during the summer months of the year.

I believe that the proposed rezone has many other positives besides accomplishing the few goals laid out by the state. One thing is transportation that is partially covered above. There is a bus stop located on Oak Harbor Ave. and this ease of access with further reduces congestion of the main roadways. Even if citizens need to travel to facilities and places of service outside of reasonable walking distance having this convenient location for public transportation will result in less cars on main roadways. The land location also provides easy access to safe and convenient collector and arterial streets thus further reducing congestions on the busiest routes, namely SR-20.

The change in land use from R-1 and R-2 seems very logical since it provides a natural buffer or segues from the R-4 designation located directly east of the school district parcel. The R-4 designation is the highest residential use allowed within the city and the stark contrast from the highest to lowest residential designation should be addressed. In addition these parcels are the only source of R-1 in the close vicinity. The remaining land surrounding the parcels are owned by the churches so the increase in density would not negatively affect the feel and integrity of a residential neighborhood. It makes sense for the parcels to increase allowable density and be more visually similar to the adjacent apartments to give the area a cohesive look and feel. This idea satisfies City of Oak Harbor Goal 11 by accomplishing the policy a., preserving the integrity of the existing neighborhood by ensuring that infill development is compatible with existing development patterns. The exact same development pattern is located just a block north where there is a current R-4 to R-2 boundary. The proposed amendment aligns with many of the other policies stated under Goal 11 of the Comprehensive Plan as well.

Stated City goals justification:
(Under sub category of community identity)

Goal 9 - To consider and, where appropriate, implement the Navy's Air Installation Compatible Use Zones (AICUZ) recommendations, and all other pertinent related information, in making land use decisions.

[See Attached Zoning/Land Use Map](#)

Policies:

9.a- Require residential development to occur outside of high aircraft noise level areas (above 70 Ldn).

[Parcels in question designated 60-65 AICUZ noise zone, lowest designation within the city on map.](#)

9.b-Encourage residential development to locate outside of moderate aircraft noise areas (60 to 70 Ldn), allowing for residential development where a demonstrated need exists and compliance is met with policy 9.e.

[Located in noise sub district A \(60-65 Ldn\) Already designated residential so no](#)

major change. Need is demonstrated elsewhere in justification document and policy 9.e. will be met at time of dwelling unit construction.

9.c- Ensure that land use and population densities in Accident Potential Zones remain low to conserve the highest degree of public health, safety, and welfare.

There are 3 types of Accident Potential Zones:

- *Clear Zone* - The trapezoidal area lying immediately beyond the end of the runway and outward along the extended runway centerline for a distance of 3,000 feet. For U.S. Navy and Marine Corps installations, the dimensions are 1,500 feet wide at the runway threshold and 2,284 feet wide at the outer edge.
- *APZ-I* - The rectangular area beyond the Clear Zone, which has a measurable potential for aircraft accidents relative to the Clear Zone. APZ-I is typically 3,000 feet wide by 5,000 feet long and may be rectangular or curved to conform to the shape of the predominant flight track.
- *APZ-II* - The rectangular area beyond APZ-I, which has a measurable potential for aircraft accidents relative to APZ-I or the Clear Zone. The dimensions of APZ II are typically 3,000 feet wide by 7,000 feet long, and like APZ-I, may be curved to correspond with the predominant flight track. In following the predominant flight, of takeoff and landing, its area connects APZ-I to APZ-I to make a full 'race track' pattern or 'loop'.

Parcels out of APZ range.

9.e- Ensure that new structures built for human occupancy in designated noise impacted areas, as identified in the aviation environs section of the city code, are constructed to a noise level reducing standard that is appropriate for the outdoor noise levels that will be experienced by the inhabitants. In addition to indoor noise level reducing construction design standards, outdoor noise level reducing measures should be considered in site planning, building location and alignment, and site design.

Will disclose information to buyers of parcels or developer.

I believe the above reasoning provides more than sufficient framework to logically justify the minor land use amendment proposed in this application. The negative side effects are minimal to nonexistent and the amendment, if accepted, results in a mutually beneficial relationship to all parties involved.



July 13, 2015

RE: Land Use change from Low Density Residential to Limited-Multi-Family Residential - 185 SW 3rd Avenue and adjacent parcels (R13203-488-4830, R13203-348-4940 and R13203-488-5060)

You are receiving this letter since you own or rent property within 300 feet of the above referenced properties. Of the three referenced properties above, two of them are owned by Valley High Investments Inc. and the third belongs to the Oak Harbor School District (OHSD). The City has received a request to change the land use designation for these properties from Low Density Residential to Limited Multi-Family Residential. The change, if approved, will allow the property owner to develop the property with a slightly higher density. The current designation allows a minimum of 3 and a maximum of 6 dwelling units/acre and the proposed change will allow a minimum of 3 and maximum of 12 dwelling units/acre.

The application for the amendment does not indicate any plans for the property owned by the OHSD. The property was included in the proposal because it allows for a good transition between the properties owned by Valley High Investment Inc. and the properties to the east along S. Oak Harbor Street that are designated Multi-Family Residential.

Changing a property's land use designation is an amendment to the Comprehensive Plan. The Planning Commission is the body that is primarily responsible for considering these amendments. The Planning Commission holds a public hearing and then makes recommendations to the City Council on the amendment. The City Council considers the recommendations and takes final action. The final action on the amendments usually occur at the end of the year.

On July 28, 2015, at 7:30pm or shortly after, the Planning Commission will hold a public hearing regarding this proposed amendment. If you have comments or questions related to the land use change, you are welcome to attend the Planning Commission meeting and share your thoughts. If you prefer, comments can also be mailed to 2015 Comp Plan Amndt, Attn. Cac Kamak, 865 SE Barrington Drive, Oak Harbor, WA 98277. Comments can all be emailed to ckamak@oakharbor.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Cac Kamak", written over a horizontal line.

Cac Kamak, AICP
Senior Planner

First Reformed Church
250 SW 3rd Avenue
Oak Harbor WA 98277

Commodore Associates
1218 3rd Ave. Suite 2201
Seattle WA 98101

Oak Harbor Assembly of God
Church
319 SW 3rd Avenue
Oak Harbor WA 98277

Harborland LTD Partnership
405 Fieldstron Rd. #105
Bellingham WA 98225

Walden Family LLC
1234 Lombardy Lane
Oak Harbor WA 98277

George Churchill
PO Box 2622
Oak Harbor WA 98277

Oak Harbor Baptist Church
495 S Oak Harbor Street
Oak Harbor WA 98277

Oak Harbor School District #201
200 SE Midway Blvd
Oak Harbor WA 98277

Southern Baptist Church of
Oak Harbor
PO Box 737
Oak Harbor WA 98277

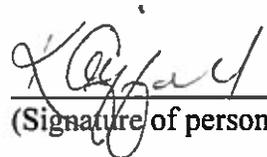
**CERTIFICATION OF MAILING
NOTICE TO ADJACENT PROPERTY OWNERS**

I, Katherine Gifford, certify under penalty of perjury under the laws of the State of Washington, that the following is true and correct:

That on the 13th day of July, 2015, I deposited in the U.S. mail, postage prepaid, a copy of the Notice of Public Hearing before the Planning Commission for Land use change for 185 SW 3rd Ave and adjacent parcels (a copy of which is attached hereto and by reference made a part hereof) to the following property owners:

(see attached)

Executed this 13th day of July, 2015, in Oak Harbor, Washington.



(Signature of person mailing)

TELECOMMUNICATION INFRASTRUCTURE

Public Meeting

City of Oak Harbor Planning Commission Report

Date: July 28, 2015
Subject: Eligible Facilities Modifications
– Code Amendment

FROM: Dennis Lefevre, AICP, Senior Planner

PURPOSE

This report initiates the discussion on a proposed new code section establishing an application submittal and approval process for collocation, removal, and replacement of wireless transmission facilities.

BACKGROUND

In 2012 the US Congress passed the “Middle Class Tax Relief and Job Creation Act of 2012”. Section 6409 of this Act (a.k.a. the “Spectrum Act”) has mandated that “local governments approve, and cannot deny, an application requesting modification of an existing tower or base station if such modification does not substantially change the physical dimensions of such tower or base station.” The purpose of this act is to facilitate and expedite the deployment of equipment and infrastructure to meet the demand for wireless capacity. Attachment 1 provides the full text of Section 6409. An amendment to the Oak Harbor Municipal Code (OHMC) is necessary to accommodate the Spectrum Act’s requirements. This amendment is anticipated to create a new Chapter (19.30) in the OHMC titled “Eligible Facilities Modifications.”

DISCUSSION

Chapter 19.29, OHMC (Wireless Communications Facilities – Attachment 2) establishes locations and options for wireless facilities including: micro facilities¹; mini facilities²; monopole I³; and monopoles II⁴. Chapter 19.29 focuses primarily on the construction of new facilities, while this chapter permits collocation of wireless facilities on existing structures, it does not provide an expedited application and review process nor provide for mandatory approval if specific criterion are met.

Creation of Chapter 19.30 is a legislative action and is consistent with goals and policies established in the City of Oak Harbor Comprehensive Plan (November 2014) and serves to implement Utilities Goal 2: *Process permit requests for utilities in a fair and timely manner to ensure predictability* and Utilities Policy 2d.: *The City should review and amend existing regulations as necessary to provide clear and objective standards for maintenance, repair, installation and replacement of utilities. Such changes shall be consistent with other Goals and Policies of the Comprehensive Plan for construction practices, restoration of City property/right-of-way, environmental protection and oak tree preservation.*

¹ A micro facility is an attached wireless communication facility which consists of antennas equal to or less than four feet in height and with an area not more than 580 square inches.

² A mini facility is an attached wireless communication facility which consists of antennas equal to or less than 10 feet in height and with an area not more than 50 square feet.

³ A monopole I is a wireless communications facility which consists of a support structure (maximum 60 feet in height) and antenna equal to or less than 15 feet in height.

⁴ A monopole II is a wireless communication facility which consists of a support structure (maximum 150 feet in height) and antenna equal to or less than 15 feet in height.

This expedited review is contingent upon the determination that the modification does not substantially change the physical dimensions of such tower or base station. Substantially change is defined as:

- a) The proposed facilities modification would not increase the height of the eligible support structure by more than ten percent (10%), or twenty (20) feet, whichever is greater; or
- b) The mounting of equipment that would involve adding an appurtenance to the body of the eligible support structure would not protrude from the edge of the structure more than twenty (20) feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.

A modification meeting these criteria is also exempt from the requirements of the State Environmental Policy Act (RCW 43.21C.0384).

This amendment establishes application submittal requirements, permit classification, timing for permit review, and the approval process. Following adoption of this amendment, Development Services staff will prepare an application based on the new Chapter 19.30 guidelines and requirements. Staff will also amend Schedule A of the Master Fee Schedule to include this application and review fee. The proposed Chapter 19.30 is Attachment 3.

The following steps represent a proposed schedule for this code amendment:

- 8/3 60-day notification to Dept. of Commerce
- 8/21 SEPA preparation
- 8/26 CC Workshop
- 8/28 Notice of Application
- 9/2 Legal in WNT
- 9/18 14-day comment period closes
- 9/22 PC Public Hearing
- 10/5 Appeal window closes
- 10/6 CC Public Hearing/Adoption

RECOMMENDATION

This item is for information and discussion only. No action is required.

ATTACHMENTS

- 1. Section 6409 of the Spectrum Act
- 2. Chapter 19.29, OHMC, Wireless Communications Facilities
- 3. Proposed Chapter 19.30, OHMC

47 USC 1455.**SEC. 6409. WIRELESS FACILITIES DEPLOYMENT.**

§ 1455. Wireless facilities deployment

(a) FACILITY MODIFICATIONS.—

(1) In General - Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) Eligible Facilities Request - For purposes of this subsection, the term “eligible facilities request” means any request for modification of an existing wireless tower or base station that involves:

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

(3) Applicability of Environmental Laws - Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

(b) FEDERAL EASEMENTS AND RIGHTS-OF-WAY

(1) Grant - If an executive agency, a State, a political subdivision or agency of a State, or a person, firm, or organization applies for the grant of an easement or right-of-way to, in, over, or on a building or other property owned by the Federal Government for the right to install, construct, and maintain wireless service antenna structures and equipment and backhaul transmission equipment, the executive agency having control of the building or other property may grant to the applicant, on behalf of the Federal Government, an easement or right-of-way to perform such installation, construction, and maintenance.

(2) Application - The Administrator of General Services shall develop a common form for applications for easements and rights-of-way under paragraph (1) for all executive agencies that shall be used by applicants with respect to the buildings or other property of each such agency.

(3) Fee

(A) In general, notwithstanding any other provision of law, the Administrator of General Services shall establish a fee for the grant of an easement or right-of-way pursuant to paragraph (1) that is based on direct cost recovery.

(B) Exceptions - The Administrator of General Services may establish exceptions to the fee amount required under subparagraph (A)—

- (i) in consideration of the public benefit provided by a grant of an easement or right-of-way; and

(ii) in the interest of expanding wireless and broadband coverage.

(4) Use of fees collected - Any fee amounts collected by an executive agency pursuant to paragraph (3) may be made available, as provided in appropriations Acts, to such agency to cover the costs of granting the easement or right-of-way.

(c) MASTER CONTRACTS FOR WIRELESS FACILITY SITINGS

(1) In general - notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, and not later than 60 days after February 22, 2012, the Administrator of General Services shall—

(A) Develop 1 or more master contracts that shall govern the placement of wireless service antenna structures on buildings and other property owned by the Federal Government; and

(B) In developing the master contract or contracts, standardize the treatment of the placement of wireless service antenna structures on building rooftops or facades, the placement of wireless service antenna equipment on rooftops or inside buildings, the technology used in connection with wireless service antenna structures or equipment placed on Federal buildings and other property, and any other key issues the Administrator of General Services considers appropriate.

(2) Applicability - The master contract or contracts developed by the Administrator of General Services under paragraph (1) shall apply to all publicly accessible buildings and other property owned by the Federal Government, unless the Administrator of General Services decides that issues with respect to the siting of a wireless service antenna structure on a specific building or other property warrant nonstandard treatment of such building or other property.

(3) Application - The Administrator of General Services shall develop a common form or set of forms for wireless service antenna structure siting applications under this subsection for all executive agencies that shall be used by applicants with respect to the buildings and other property of each such agency.

(d) EXECUTIVE AGENCY DEFINED - In this section, the term “executive agency” has the meaning given such term in section 102 of title 40.
(Pub. L. 112–96, title VI, § 6409, Feb. 22, 2012, 126 Stat. 232.)

Chapter 19.29

WIRELESS COMMUNICATIONS FACILITIES

Sections:

- 19.29.010 Purpose.**
- 19.29.020 Development standards for micro facilities.**
- 19.29.030 Development standards for mini facilities.**
- 19.29.040 Development standards for macro facilities.**
- 19.29.050 Development standards for monopole I.**
- 19.29.060 Development standards for monopole II.**
- 19.29.070 Additional permit criteria for monopole I and monopole II.**
- 19.29.080 Exemption.**
- 19.29.090 Obsolescence.**

19.29.010 Purpose.

In addition to the general purposes of the comprehensive plan and this title, this chapter is included in order to provide for a wide range of locations and options for wireless communications providers while minimizing the unsightly characteristics associated with wireless communications facilities and to encourage creative approaches in locating wireless communications facilities which will blend in with the surroundings of such facilities. (Ord. 1555 § 12, 2009).

19.29.020 Development standards for micro facilities.

- (1) Micro facilities are permitted in all zones.
- (2) A micro facility shall be located on existing buildings, poles or other existing support structures. A micro facility may locate on buildings and structures; provided, that the interior wall or ceiling immediately adjacent to the facility is not designated residential space.
- (3) Antennas equal to or less than four feet in height (except omni-directional antennas which can be up to six feet in height) and with an area of not more than 580 square inches in the aggregate (e.g., one-foot diameter parabola or two-foot by one-and-one-half-foot panel as viewed from any one point) are exempt from the height limitation of the zone in which they are located. Structures which are nonconforming with respect to height may be used for the placement of omni-directional antennas providing they do not extend more than six feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.
- (4) The micro facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.
- (5) The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

(6) In single-family residential (PRE, R-1 and R-2) zones, micro facilities for a specific wireless provider shall be separated by a distance equal to or greater than 1,320 linear feet from other micro facilities of the same wireless provider. (Ord. 1555 § 12, 2009).

19.29.030 Development standards for mini facilities.

(1) Mini facilities are permitted in all zones except single-family residential (PRE, R-1 and R-2) zones.

(2) The mini facility may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

(3) The mini facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

(4) The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

(5) Mini facilities shall comply with the height limitation specified for all zones except as follows: Omni-directional antennas may exceed the height limitation by 10 feet or, in the case of nonconforming structures, the antennas may extend 10 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing nonconforming building and they blend in architecturally with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure. (Ord. 1555 § 12, 2009).

19.29.040 Development standards for macro facilities.

(1) Macro facilities are permitted in all zones except single-family residential (PRE, R-1 and R-2) zones.

(2) Macro facilities may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

(3) The macro facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

(4) The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

(5) Macro facilities shall comply with the height limitation specified for all zones, except as follows: Omni-directional antennas may exceed the height limitation by 15 feet, or, in the case of nonconforming structures, the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming

structure shall not be considered to be an expansion of the nonconforming structure. (Ord. 1555 § 12, 2009).

19.29.050 Development standards for monopole I.

- (1) Monopole I facilities are only permitted in the industrial (I) zone.
- (2) Monopole I facilities are permitted in community commercial (C-3), highway service commercial (C-4), highway corridor commercial (C-5), planned business park (PBP), planned industrial park (PIP), and public facilities (PF) zones with a conditional use permit.
- (3) Monopole I facilities are not permitted in residential (PRE, R-1, R-2, R-3 and R-4), residential office (RO), neighborhood commercial (C-1) or central business district (CBD) zones, except when expressly provided for in this chapter.
- (4) Antennas equal to or less than 15 feet in height or up to four inches in diameter may be a component of a monopole I facility. Antennas which extend above the wireless communications support structure shall not be calculated as part of the height of the monopole I wireless communications support structure. For example, the maximum height for a monopole I shall be 60 feet and the maximum height of antennas which may be installed on the support structure could be 15 feet, making the maximum permitted height of the support structure and antennas 75 feet (60 feet plus 15 feet).
- (5) Co-location on an existing support structure shall be permitted. Macro facilities are the largest wireless communications facilities allowed on monopole I.
- (6) The shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the monopole I facilities shall be concealed, camouflaged or placed underground. Monopole I facilities shall be subject to review by the planning commission using the procedures and review criteria specified in Chapter 19.48 OHMC and this chapter.
- (7) Monopole I facilities shall be landscaped in conformance with Chapter 19.46 OHMC.
- (8) Monopole I facilities adjacent to a single-family zone shall be set back a distance equal to the height of the wireless communications support structure from the nearest single-family lot line. (Ord. 1555 § 12, 2009).

19.29.060 Development standards for monopole II.

- (1) Monopole II facilities are only permitted in the industrial (I) zone; provided the wireless communications support structure shall be designed to accommodate two or more wireless communications facilities.
- (2) Monopole II facilities are permitted in highway service commercial (C-4), planned business park (PBP), planned industrial park (PIP), and public facilities (PF) zones with a conditional use permit.

(3) Monopole II facilities are not permitted in residential (PRE, R-1, R-2, R-3 and R-4), residential office (RO), neighborhood commercial (C-1) or central business district (CBD) zones, except when expressly provided for in this chapter.

(4) Monopole II facilities which exceed 60 feet in height or are located within 300 feet of a residential zone shall require a conditional use permit.

(5) Co-location of wireless communications facilities on an existing support structure shall be permitted.

(6) Macro facilities are the largest permitted wireless communications facilities allowed on a monopole II facility. Antennas which extend above the monopole II wireless communications support structure shall not be calculated as part of the height of the wireless communications support structure. For example, the maximum height for a monopole II facility shall be 150 feet and the maximum height of antennas which may be installed on the support structure could be 15 feet, making the maximum permitted height of the support structure and antennas 165 feet (150 feet plus 15 feet).

(7) The shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the monopole I facilities shall be concealed, camouflaged or placed underground. Monopole I facilities shall be subject to review by the planning commission using the procedures and review criteria specified in Chapter 19.48 OHMC and this chapter.

(8) Monopole II facilities shall be landscaped in conformance with Chapter 19.46 OHMC.

(9) Monopole II facilities adjacent to a single-family zone shall be set back a distance equal to the height of the wireless communications support structure from the nearest single-family lot line.

(10) Monopole II facilities shall be separated from each other by a distance equal or greater than 1,320 feet. (Ord. 1555 § 12, 2009).

19.29.070 Additional permit criteria for monopole I and monopole II.

In addition to the permit criteria specified in Chapters 19.48 and 19.67 OHMC, the following specific criteria shall be met before a site plan review or conditional use permit can be granted:

(1) Antennas may not extend more than 15 feet above their supporting structure, monopole, building or other structure.

(2) Site location and development shall preserve the pre-existing character of the surrounding buildings and land uses and the zone district to the extent consistent with the function of the communications equipment. Wireless communications towers shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practical. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

(3) Accessory equipment facilities used to house wireless communications equipment should be located within buildings or placed underground when possible. When they cannot be located in buildings, equipment shelters or cabinets shall be screened and landscaped in conformance with Chapter 19.46 OHMC.

(4) No equipment shall be operated so as to produce noise in levels above 45 dB as measured from the nearest property line on which the attached wireless communications facility is located.

(5) In any proceeding regarding the issuance of site plan review or a conditional use permit under the terms of this chapter, federal law prohibits consideration of environmental effects of radio frequency emissions to the extent that the proposed facilities comply with the Federal Communications Commission regulations concerning such emission.

(6) Towers, antennas or other objects that penetrate the 100:1 angle slope criteria established in Federal Aviation Regulation (FAR) Part 44 (Sections 77.13(a)(1) and 77.13(a)(2)(I), respectively) shall be reviewed for compatibility with airport operations. No tower, antenna or other object shall constitute a hazard to air navigation, interfere with the safe operation of aircraft or deny the existing operational capability of Ault Field. (Ord. 1555 § 12, 2009).

19.29.080 Exemption.

The following are exempt from the requirement of a conditional use permit, and shall be considered a permitted use in all zones where wireless and attached wireless communications facilities are permitted: Minor modifications of existing wireless communications facilities and attached wireless communications facilities, whether emergency or routine, so long as there is little or no change in the visual appearance. Minor modifications are those modifications, including the addition of antennas, to conforming wireless and attached wireless communications facilities that meet the performance standards set forth in this chapter. (Ord. 1555 § 12, 2009).

19.29.090 Obsolescence.

A wireless communications facility or attached wireless communications facility shall be removed by the facility owner within six months of the date it ceases to be operational or if the facility falls into disrepair. (Ord. 1555 § 12, 2009).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR ADDING A NEW CHAPTER 19.30 TO THE OAK HARBOR MUNICIPAL CODE ENTITLED "ELIGIBLE FACILITIES MODIFICATIONS" RELATING TO COLLOCATION, REMOVAL AND REPLACEMENT OF WIRELESS FACILITIES; ESTABLISHING DEVELOPMENT REGULATIONS FOR COLLOCATION, REMOVAL AND REPLACEMENT OF WIRELESS TRANSMISSION FACILITIES TO CONFORM TO FEDERAL LAW AND REGULATIONS; ESTABLISHING AN APPLICATION SUBMITTAL AND APPROVAL PROCESS; PROVIDING FOR TERMINATION OF NON-CONFORMING STRUCTURES; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, in 1934, Congress enacted the Communications Act of 1934, creating the FCC and granting it authority over common carriers engaged in the provision of interstate or foreign communications services; and

WHEREAS, in 1996 Congress enacted Pub. L. No. 104-104, 110 Stat. 70 (the "1996 Act"), amending the Communications Act of 1934 and implementing regulations applicable to both wireless and wireline communications facilities for the purpose of removal of barriers to entry into the telecommunications market while preserving local government zoning authority except where specifically limited under the 1996 Act; and

WHEREAS, in the 1996 Act, Congress imposed substantive and procedural limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of wireless facilities and incorporated those limitations into the Communications Act of 1934; and

WHEREAS, the City has adopted regulations that have been codified as part of the Municipal Code of the City establishing local requirements for the location, construction and modification of wireless facilities; and

WHEREAS, in 2012 Congress passed the "Middle Class Tax Relief and Job Creation Act of 2012" (the "Spectrum Act") (PL-112-96; codified at 47 U.S.C. §1455(a)); and

WHEREAS, Section 6409 (hereafter "Section 6409") of the Spectrum Act implements additional substantive and procedural limitations upon state and local government authority to regulate modification of existing wireless antenna support structures and base stations; and

WHEREAS, Congress through its enactment of Section 6409 of the Spectrum Act has mandated that local governments approve, and cannot deny, an application requesting modification of an existing tower or base station if such modification does not substantially change the physical dimensions of such tower or base station; and

WHEREAS, the 1996 Act empowers the Federal Communications Commission (the "FCC") to prescribe such rules and regulations as may be necessary in the public interest to carry out the

provisions of the 1996 Act and subsequently added portions of the 1996 Act such as Section 6409; and

WHEREAS, the FCC, pursuant to its rule making authority, adopted and released a Notice of Proposed Rulemaking in September of 2013 (*in re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 13-122) which focused in part upon whether or not the FCC should adopt rules regarding implementation of Section 6409; and

WHEREAS, on October 21, 2014, the FCC issued its report and order, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, in the above-described proceeding (the "Report and Order" or "Order") clarifying and implementing statutory requirements related to state and local government review of infrastructure siting, including Section 6409, with the intent of facilitating and expediting the deployment of equipment and infrastructure to meet the demand for wireless capacity; and

WHEREAS, the rules adopted by the FCC in its Report and Order implementing Section 6409 are intended by the FCC to spur wireless broadband deployment, in part, by facilitating the sharing of infrastructure that supports wireless communications through incentives to collocate on structures that already support wireless facilities; and

WHEREAS, the Report and Order also adopts measures that update the FCC's review processes under the National Environmental Policy Act of 1969 ("NEPA") and section 106 of the National Historic Preservation Act of 1966 ("NHPA"), with a particular emphasis on accommodating new wireless technologies that use smaller antennas and compact radio equipment to provide mobile voice and broadband service; and

WHEREAS, on January 5, 2015, the FCC released an Erratum to the Report and Order making certain amendments to the provisions of the Report and Order related to NEPA and Section 106 of the NHPA; and

WHEREAS, that part of the Report and Order related to implementation of Section 6409, amends 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE) by adding new Subpart CC §1.40001 and establishing both substantive and procedural limitations upon local government application and development requirements applicable to proposals for modification to an existing antenna support structure or an existing base station ("Eligible Facility Request Rules"); and

WHEREAS, the Order, among other things, defines key terms utilized in Section 6409, establishes application requirements limiting the information that can be required from an applicant, implements a 60 shot clock and tolling provisions, establishes a deemed approved remedy for applications not timely responded to, requires cities to approve a project permit application requesting modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, and establishes development standards that govern such proposed modifications; and

WHEREAS, the Report and Order provides that the Eligible Facility Request Rules will be effective ninety (90) days following publication in the Federal Register; and

WHEREAS, the Order was published in the Federal Register on Thursday, January 8, 2015, Federal Register; Vol. 80; No. 5, resulting in the Eligible Facility Request Rules becoming effective on April 8, 2015; and

WHEREAS, the Order is subject to appeal, however, even if an appeal is filed, the appeal will not automatically result in delay of implementation of the Eligible Facility Request Rules; and

WHEREAS, the City Council finds that it is required under Section 6409 of the Spectrum Act and the Eligible Facility Request Rules established in the Order, to adopt and implement local development and zoning regulations that are consistent with Section 6409 and the Order; and

WHEREAS, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act (RCW Chapter 43.21.C), pursuant to Washington Administrative Code Chapter 197-11, and a determination of Non-Significance ("DNS") was issued on the ____ day of _____, _____; and

WHEREAS, in accordance with RCW 36.70A.106 and WAC 365-196-630, a notice of intent to adopt the proposed new development regulations was sent to the State of Washington Department of Commerce and to other state agencies to allow for a sixty (60) day review and comment period, which comment period ended prior to adoption of this ordinance; and

WHEREAS, on the ____ day of _____, _____, the Planning Commission held a duly noticed public meeting related to the proposed interim development and zoning regulations set forth in the proposed ordinance; and

WHEREAS; the City Council considered the proposed development and zoning regulations on the ____ day of _____, _____; and

WHEREAS, the City Council finds that the proposed development and zoning regulations are reasonable and necessary in order to bring the City's development regulations into compliance with the mandate imposed upon the City by Congress pursuant to Section 6409 and the regulations imposed upon the City by the FCC pursuant to its Report and Order, and are therefore in the public interest;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. There is hereby added a new Chapter 19.30 entitled "Eligible Facilities Modifications" to the Oak Harbor Municipal Code to read as follows:

**CHAPTER 19.30
ELIGIBLE FACILITIES MODIFICATIONS**

Sections:

19.30.010	Title
19.30.020	Adoption of Findings and Conclusions
19.30.030	Purpose and Intent
19.30.040	Definitions
19.30.050	Applicability – Relationship to Other Rules and Regulations
19.30.060	Permit Classification
19.30.070	Application Submittal Requirements
19.30.080	Review of Application; Approval
19.30.090	Substantial Change Criteria
19.30.100	Nonconforming Structure; Termination
19.30.110	Enforcement

19.30.010 Title. This chapter shall be known and referred to as the "Eligible Facilities Modification Code" or "EFM Code". Unless the context indicates otherwise, a reference herein to "this code" or "this chapter" shall mean and refer to the Eligible Facilities Modification Code.

19.30.020 Adoption of Findings and Conclusion. The recitals set forth in the ordinance adopting this code are adopted as findings and conclusions of the City Council.

19.30.030 Purpose and Intent. The purpose and intent of this chapter are to:

- (1) To implement §6409 of the "Middle Class Tax Relief and Job Creation Act of 2012" (the "Spectrum Act") (PL-112-96; codified at 47 U.S.C. §1455(a)) which requires the City to approve any eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station;
- (2) To implement the FCC rules set forth at 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE) new Subpart CC §1.40001 (Wireless Facility Modifications), which rules implement §6409 of the Spectrum Act;
- (3) To establish procedural requirements and substantive criteria applicable to review and approval or denial of applications for an eligible facilities modification;
- (4) To ensure that application submittal requirements are related to information reasonably necessary to the determination of whether or not the proposed modification will result in a substantial change in the physical dimensions of the eligible support structure;
- (5) To exempt facilities modifications approval under this chapter as eligible facilities requests from zoning and development regulations that are inconsistent with or preempted by Section 6409 of the Spectrum Act;

- (6) To preserve the City's right to continue to enforce and condition approvals under this chapter on compliance with generally applicable building, structural, electrical and safety codes and with other laws codifying objective standards reasonably related to health and safety;
- (7) To promote timely decisions under this chapter;
- (8) To ensure that decisions are made consistently and predictably;
- (9) To incorporate provisions of RCW 43.21C.0384 that exempt eligible facilities modifications from review under RCW 43.21C.030(2)(c), (State Environmental Policy Act);
- (10) To recognize that Section 6409(a)(1) of the Spectrum Act operates to preempt any provision of the State Environmental Policy Act (RCW Ch. 43.21C) to the extent that any such provision, including RCW 43.21C.030(2)(c), would prohibit a City from approving any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station; and
- (11) To provide for termination of eligible facilities modifications approved pursuant to this chapter, as nonconforming structures in the event that §6409(a) of the Spectrum Act is found to be unconstitutional or otherwise determined to be invalid or unenforceable and such modifications would otherwise have been in derogation of development regulations in place at the time of receipt of a completed application.

19.30.040 Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter, unless the context clearly requires otherwise. Any term or phrase not defined herein shall have the meaning that is given to that term or phrase in _____ of the Oak Harbor Municipal Code. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory and the word "may" is always discretionary. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law, regulation or rule referred to herein be renumbered or amended, then the reference shall be read to refer to the renumbered or amended provision.

- (1) "Approval authority" is the public official, or designee, who has authority under the Oak Harbor Municipal Code to administratively issue project permit approvals.
- (2) "Applicant" shall mean and refer to the person, and such person's successor in interest, owning and/or operating the transmission equipment proposed in an eligible facilities modification application to be collocated, removed or replaced.

- (3) "Authorized person" is the person, employees, agents, consultants, and contractors, authorized in writing by applicant to complete and submit an eligible facilities modification application on behalf of applicant and who is authorized to receive any notices on behalf of applicant of any action taken by the City regarding the application.
- (4) "Base station" shall mean and refer to the structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower.
- (a) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (b) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
- (c) The term includes any structure other than a tower that, at the time an eligible facilities modification application is filed with the City under this chapter, supports or houses equipment described in paragraphs (i) – (ii) above, and that has been reviewed and approved under the applicable zoning or siting process, or under another State, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- (d) The term does not include any structure that, at the time a completed eligible facilities modification application is filed with the City under this section, does not support or house equipment described in paragraphs (a) – (b) above.
- (5) "City" shall mean and refer to the City of Oak Harbor.
- (6) "City Code" shall mean and refer to the codified ordinances of the City.
- (7) "Collocation" shall mean and refer to the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- (8) "Conceal" or "Concealment" shall mean and refer to eligible support structures and transmission facilities designed to look like some feature other than a wireless tower or base station.
- (9) "Deemed approved" shall mean and refer to an eligible facilities modification application that has been deemed approved upon the City's failure to act, and has become effective, as provided pursuant to the FCC Eligible Facilities Request Rules.

- (10) "Eligible facilities modification application" or "application" shall, unless the context clearly requires otherwise, mean and refer to a written document submitted to the City pursuant to this chapter for review and approval of a proposed facilities modification.
- (11) "Eligible facilities modification" shall mean and refer to any proposed facilities modification that has been determined pursuant to the provisions of this chapter to be subject to this chapter and which does not result in a substantial change in the physical dimensions of an eligible support structure.
- (12) "Eligible facilities modification permit" or "permit" shall, unless the context clearly requires otherwise, mean and refer to a written document issued by the approval authority pursuant to this chapter approving an eligible facilities modification application.
- (13) "Eligible support structure" shall mean and refer to any existing tower or base station as defined in this chapter, provided that it is in existence at the time the eligible facilities modification application is filed with the City under this chapter.
- (14) "Existing" shall, for purpose of this chapter and as applied to a tower or base station, mean and refer to a constructed tower or base station that has been reviewed and approved under the applicable zoning or siting process of the City, or under another State, county or local regulatory review process; provided that, a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.
- (15) "Proposed facilities modification" shall mean and refer to a proposal submitted by an applicant to modify an eligible support structure which the applicant asserts is subject to review under Section 6409 of the Spectrum Act, and involving:
- (a) collocation of new transmission equipment;
 - (b) removal of transmission equipment; or
 - (c) replacement of transmission equipment.
- (16) "FCC" shall mean and refer to the Federal Communications Commission or its successor.
- (17) "FCC Eligible Facilities Request Rules" shall mean and refer to 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE), Subpart CC §1.40001 as established pursuant to its Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, or as may be thereafter amended.
- (18) "Site" shall, for towers other than towers in the public rights-of-way, mean and refer to the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support

structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

- (19) "Small cell facility" shall mean and refer to a personal wireless services facility that meets both of the following qualifications:
- (a) Each antenna is located inside an antenna enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and
 - (b) Primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, are not included in the calculation of equipment volume: electric meter, concealment, telecomm demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch.
- (20) "Small cell network" shall mean and refer to a collection of interrelated small cell facilities designed to deliver personal wireless services.
- (21) "Spectrum Act" shall mean and refer to the "Middle Class Tax Relief and Job Creation Act of 2012" (Public Law 112-96; codified at 47 U.S.C. §1455(a)).
- (22) "Substantial change criteria" shall mean and refer to the criteria set forth in this chapter at OHMC 19.30.090.
- (23) "Transmission Equipment" shall mean and refer to equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (24) "Tower" shall mean and refer to any structure built for the sole or primary purpose of supporting any antennas and their associated facilities, licensed or authorized by the FCC, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

19.30.050 Applicability – Relationship to Other Rules and Regulations.

- (1) Sole and Exclusive Procedure. Except as may be otherwise provided in this chapter, and notwithstanding any other provisions in the City Code, the provisions of this chapter

shall be the sole and exclusive procedure for review and approval of a proposed facilities modification which the applicant asserts is subject to review under Section 6409 of the Spectrum Act. To the extent that other provisions of the City Code establish a parallel process for review and approval of a project permit application for a proposed facilities modification, the provisions of this chapter shall control. In the event that any part of an application for project permit approval includes a proposed facilities modification, the proposed facilities modification portion of the application shall be reviewed under the provisions of this chapter. In the event that an application for project permit approval includes a proposal to modify an eligible support structure, and the applicant does not assert in the application that the proposal is subject to review under Section 6409 of the Spectrum Act, such proposal shall not be subject to review under this chapter and may be subject to review under other applicable provisions of the City Code.

- (2) Non-conforming Structures. This chapter shall not apply to a proposed facility modification to an eligible support structure that is not a legal conforming, or legal non-conforming, structure at the time a completed eligible facilities modification application is filed with the City. To the extent that the non-conforming structures and use provisions of the City Code would operate to prohibit or condition approval of a proposed facilities modification application otherwise allowed under this chapter, such provisions are superseded by the provisions of this chapter and shall not apply.
- (3) Replacement of Eligible Support Structure. This chapter shall not apply to a proposed facility modification to an eligible support structure that will involve replacement of the tower or base station.
- (4) First Deployment; Base Station. This chapter shall not apply to a proposed facility modification to a structure, other than a tower, that does not, at the time of submittal of the application, already house or support transmission equipment lawfully installed within or upon, or attached to, the structure.
- (5) Interpretation. Interpretations of this chapter shall be guided by Section 6409 of the Spectrum Act; the FCC Eligible Facilities Request Rules, the FCC's Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153; and Sections 19.30.020 (Adoption of Findings and Conclusions) and 19.30.030 (Purpose and Intent) of this Code.
- (6) SEPA Review. Unless otherwise provided by law or regulation, decisions pertaining to an eligible facilities modification application are not subject to, and are exempt from, the requirements of RCW 43.21C.030(2)(c), if:
 - (a) The proposed facilities modification would not increase the height of the eligible support structure by more than ten percent (10%), or twenty (20) feet, whichever is greater; or

- (b) The mounting of equipment that would involve adding an appurtenance to the body of the eligible support structure would not protrude from the edge of the structure more than twenty (20) feet, or more than the width of the structure at the level of the appurtenance, whichever is greater; (See RCW 43.21C.0384 and WAC 197-11-800(25))
 - (c) The authority to condition or deny an application pursuant to Chapter 43.21 RCW is preempted, or otherwise supplanted, by Section 6409 of the Spectrum Act.
- (7) Reservation of Authority. Nothing herein is intended or shall operate to waive or limit the City's right to enforce, or condition approval on, compliance with generally acceptable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.

19.30.060 Permit Classification. An eligible facilities modification permit shall be classified as an administrative permit subject to review and approval or denial by the approval authority.

19.30.070 Application Submittal Requirements; Determination of Completeness.

- (1) Purpose. This section sets forth the submittal requirements for an eligible facilities modification application. The purpose of the submittal requirements is to ensure that the City has all information and documentation that is reasonably necessary to determine if the applicant's proposed facilities modification will substantially change the physical dimensions of an eligible support structure. The submittal requirements are not intended to require the applicant to establish the need for the proposed modifications or to justify the business decision to propose such modification.
- (2) Submittal Requirements. No eligible facilities modification application shall be deemed complete unless it is, in writing, accompanied by the applicable application and review fee (Do we need to add language re: MFS when referencing a fee??), includes the required submittals, and is attested to by the authorized person submitting the application on behalf of the applicant, certifying the truth and accuracy of the information provided in the application. The application shall include the following submittals, unless waived by the approval authority:
 - (a) The following contact information for the Authorized Person:
 - (i) Name;
 - (ii) Title;
 - (iii) Mailing Address;
 - (iv) Phone Number; and
 - (v) Electronic Mail Address (optional).
 - (b) The legal and dba names, mailing address, Washington tax number, and contact phone number(s) of Applicant.

- (c) If a corporation, the name and address of the registered agent of Applicant in Washington State, and the state of incorporation of Applicant.
- (d) If Applicant is an entity, other than a corporation, such as a partnership or limited liability company, the names and business addresses of the principals.
- (e) An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act.
- (f) If the applicant is not the owner or person in control of the eligible support structure and/or site, the following shall be required:

An attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facilities modification. If the eligible support structure is located in a public right-of-way, the applicant must also attest that applicant has authorization to install, maintain and operate transmission equipment in, under and above the public right-of-way.

- (g) If the applicant proposes a modification involving collocation of transmission equipment or the replacement of transmission equipment, the following shall be required:

Complete copies of the underlying land use approvals for siting of the tower or base station proposed to be modified, establishing that, at the time of submittal of the application, such tower or base station constituted an eligible support structure.

- (h) If the applicant proposes a modification that will result in an increase in height of the eligible support structure, the following shall be required:

Record drawings, as-built plans, or the equivalent, showing the height of the eligible support structure, (a) as originally constructed and granted approval by the City or other applicable zoning or similar regulatory authority, or (b) as of the most recent modification that received city, or other local zoning or regulatory approval, prior to the passage of the Spectrum Act, whichever height is greater.

- (i) If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing restrictions or requirements imposed by a reviewing official or decision-making body pursuant to authority granted under the City Code, or an ordinance or a municipal code of another local government authority, the following shall be required:

A copy of the document (e.g., CUP or SUP) setting forth such pre-existing restrictions or requirements together with a certification that the proposed facilities modification conforms to such restrictions or requirements; provided

that, such certification shall have no application to the extent the proposed facilities modification relates solely to an increase in height, increase in width, addition of cabinets, or new excavation, that does not result in a substantial change in the physical dimensions of the eligible support structure.

- (j) If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing concealment restrictions or requirements, or was constructed with concealment elements, the following shall be required:

Applicant shall set forth the facts and circumstances demonstrating that the proposed modification would not defeat the existing concealment elements of the eligible support structure. If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete. The visual simulation shall depict to scale the eligible support structure in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.

- (k) If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, the following shall be required:

Record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification.

- (l) If the applicant proposes a modification to an eligible support structure that will (a) include any excavation, (b) would result in a protrusion from the edge of a tower that exceeds an existing protrusion of any transmission equipment attached to a tower, or (c) would protrude from the edge of a non-tower eligible support structure, the following shall be required:

A description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions, depicting the boundaries of the site in elevation and dimensions of the new or replacement transmission equipment. The City may require a survey by a land surveyor licensed in the state of Washington when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site to determine if the proposed facilities modification would result in a substantial change in the physical dimensions of the eligible support structure.

- (m) If the applicant proposes a modification to the eligible support structure that includes hardening through structural enhancement, the following shall be required:

A technical report by a qualified engineer accredited by the state of Washington, demonstrating that the structural enhancement is performed in connection with and is necessary to support the proposed collocation, removal, or replacement of transmission equipment and conforms to applicable code requirements. The City may retain the services of an independent technical expert to review, evaluate and provide an opinion regarding the applicant's demonstration of necessity.

- (n) If the applicant proposes a modification to a tower, the following shall be required:

A stamped report by a state of Washington registered professional engineer demonstrating that the tower with the proposed modifications will comply with applicable structural, electrical and safety codes, including by way of example, and not limitation, EIA/TIA-222-Revision G, published by the American National Standards Institute (as amended), allowable wind speed for the applicable zone in which the tower is located, and describing the general structural capacity of the tower with the proposed modifications, including:

- (i) The number and type of antennas that can be accommodated;
- (ii) The basis for the calculation of capacity; and
- (iii) A written statement that the proposal complies with all federal guidelines regarding interference and ANSI standards as adopted by the FCC, including but not limited to nonionizing electromagnetic radiation (NIER) standards.

The City may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the applicant's demonstration of compliance.

- (o) If the applicant proposes a modification to a base station, the following shall be required:

A stamped report by a state of Washington registered professional engineer demonstrating that the base station, with the proposed modifications, will comply with applicable structural, electrical and safety codes.

- (p) If the applicant proposes a modification requiring, alteration to the eligible support structure, excavation, installation of new equipment cabinets, or any other activities impacting or altering the land, existing structures, fencing, or landscaping on the site, the following shall be required:

A detailed site plan and drawings, showing the true north point, a graphic scale and, drawn to an appropriate decimal scale, indicating and depicting, (a) the location, elevation and dimensions of the existing eligible support structure, (b)

the location, elevation and dimensions of the existing transmission equipment, (c) the location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment, (d) the location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each, (e) any proposed modification to the eligible support structure, (f) the location of existing structures on the site, including fencing, screening, trees, and other significant site features, and (g) the location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.

- (q) Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE), Section 1.1307, as amended, or, in the event that an FCC environmental assessment is not required, a statement that described the specific factors that obviate the requirement for an environmental assessment.
- (3) Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, is not reasonably related to the substantial change criteria. A waiver, to be effective, must be in writing and signed by the approval authority.
- (4) When Received. An eligible facilities modification application, and any supplemental submittals, shall be deemed received by the City upon the date such application, or supplemental submittal, is filed with the _____. An application, and any supplemental submittals, must be filed in person during regular business hours of the City and must be accompanied by the applicable permit review fee(s) (Do we need to add language re: MFS??). Any application received by the City without contemporaneous payment, or deposit, of the applicable permit review fees will be rejected.
- (5) Completed Application; Determination; Tolling.
- (a) Determination of Completeness. The approval authority shall, within thirty (30) days of receipt of the application, review the application for completeness. An application is complete if it includes the applicable permit review fee(s) and contains all of the application submittal requirements set forth at OHMC 19.30.070(2) of this chapter, unless waived by the approval authority pursuant to OHMC 19.30.070(3). The determination of completeness shall not preclude the approval authority from requesting additional information or studies either at the time of the determination of completeness or subsequently if new or additional information is required, or substantial changes in the proposed action occur, or the proposed facilities modification is modified by applicant, as determined by the approval authority.
- (b) Incomplete Application. The approval authority shall notify the applicant within thirty (30) days of receipt of the application that the application is incomplete.

Such notice shall clearly and specifically delineate all missing documents or information.

- (c) Tolling Timeframe for Review. The application review period begins to run when the application is received, and may be tolled when the approval authority determines that the application is incomplete and provides notice as set forth below. The application review period may also be tolled by mutual agreement of the approval authority and applicant. The timeframe for review is not tolled by a moratorium on the review of eligible facility modification applications.
- (i) To toll the timeframe for review for incompleteness, the approval authority must provide written notice to the applicant within thirty (30) days of the date of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to submittals set forth in OHMC 19.30.070(2) and any supplemental information requested by the approval authority that is reasonably related to determining whether the proposed facilities modification will substantially change the physical dimension of an eligible support structure.
 - (ii) The timeframe for review begins running again when the City is in receipt of applicant's supplemental submission in response to the approval authority's notice of incompleteness.
 - (iii) Following a supplemental submission, the approval authority shall have ten (10) days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this paragraph (5)(c)(iii). Except as may be otherwise agreed to by the applicant and the approval authority, second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - (iv) A notice of incompleteness from the City will be deemed received by the Applicant upon the earlier of, personal service upon the authorized person, delivery by electronic mail to the authorized person (if such delivery is authorized for receipt of notice by the authorized person), or three (3) days from deposit of the notice in the United States Mail, postage prepaid, and in an envelope properly addressed to the authorized person using the address set forth in the application.
- (d) Modification of Application. In the event that after submittal of the application, or as a result of any subsequent submittals, applicant modifies the proposed facilities modification described in the initial application, the application as modified will be considered a new application subject to commencement of a new

application review period; provided that, applicant and the approval authority may, in the alternative, enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time that may be reasonably necessary for review of the modified application.

19.30.080 Review of Application; Approval.

- (1) Review of Application. The approval authority shall review an eligible facilities modification application to determine if the proposed facilities modification is subject to this chapter, and if so, if the proposed facilities modification will result in a substantial change to the physical dimensions of an eligible support structure.
- (2) Timeframe for Review. Within sixty (60) days of the date on which the City receives an eligible facilities modification application, less any time period that may be excluded under the tolling provisions of this chapter or a tolling agreement between the applicant and the approval authority, the approval authority shall approve the application and contemporaneously issue an eligible facilities modification permit unless the approval authority determines that the application is not subject to this chapter, or the proposed facilities modification will substantially change the physical dimension of an eligible support structure.
- (3) Approval; Denial. An eligible facilities application shall be approved, and an eligible facilities permit issued, upon determination by the approval authority that the proposed facilities modification is subject to this chapter and that it does not substantially change the physical dimensions of an eligible support structure. An eligible facilities application shall be denied upon determination by the approval authority that the proposed facilities modification is not subject to this chapter or will substantially change the physical dimensions of an eligible support structure. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the substantial change criteria.
- (4) Deemed Approved Application. An application that has been deemed approved shall be and constitute the equivalent of an eligible facilities modification permit, except as may be otherwise determined by a court of competent jurisdiction, and shall be subject to generally applicable enforcement and compliance requirements in the same manner as an eligible facilities modification permit issued pursuant to this chapter.
- (5) Denial of Application. A denial of an eligible facilities modification application shall set forth in writing the reasons for the denial and shall be provided to the applicant.
- (6) Code Requirements. Any eligible facilities modification permit issued pursuant to this chapter, and any application that has been deemed approved, shall be and is conditioned upon compliance with any generally applicable building, structural, electrical, and safety codes and other laws codifying objective standards reasonably related to health and safety. Violation of any such applicable code or standard shall be deemed to be a violation of the eligible facilities modification or deemed approved application.

- (7) Term of Eligible Facilities Modification Permit. An eligible facilities modification permit issued pursuant to this chapter, and any deemed approved application, shall be valid for a term of one hundred eighty (180) days from the date of issuance, or the date the application is deemed approved.
- (8) Remedies. Notwithstanding any other provisions in the City Code, no administrative review is provided for review of a decision to condition, deny or approve an application. Applicant and the City retain any and all remedies that are available at law or in equity, including by way of example and not limitation, those remedies set forth in the FCC Eligible Facilities Request Rules and remedies available under the Land Use Petition Act. In the event no other time period is provided at law for bringing an action for a remedy, any action challenging a denial of an application or notice of a deemed approved remedy, shall be brought within thirty (30) days following the date of denial or following the date of notification of the deemed approved remedy. (Note: The FCC Report and Order in *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, Par's 234-236, provides that the City shall have thirty (30) days from the date of notification by the applicant of a deemed granted remedy to bring a legal action in a court of competent jurisdiction to challenge the deemed granted remedy, and that the applicant shall have thirty (30) days from the date of denial to bring a legal action in a court of competent **(add: jurisdiction?)** challenging a denial of the application.)

19.30.090 Substantial Change Criteria. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the following criteria:

- (1) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater;

Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act. (Note: The FCC Report and Order in *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, Par's 234-236, provides that the City shall have thirty (30) days from the date of notification by the applicant of a deemed granted remedy to bring a legal action in a court of competent jurisdiction to challenge the deemed granted remedy, and that the applicant shall have thirty (30) days from the date of denial to bring a legal action in a court of competent **(add: jurisdiction?)** challenging a denial of the application.)

- (2) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves

adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet.

- (3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public right-of-way and the base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;
- (a) it entails any excavation or deployment outside the current site;
 - (b) it would defeat the concealment elements of the eligible support structure; or
 - (c) it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in this section OHMC 19.30.090.

(Note: The FCC rules refer to the date of passage of the Spectrum Act. The Spectrum Act was enacted on February 22, 2012. Presumably the FCC intended to refer to the date of enactment as the date of passage.)

19.30.100 Non-conforming Structure; Termination.

- (1) Application. The provisions of this section OHMC 19.30.100 shall apply to any facilities modification constructed, installed, placed or erected pursuant to an eligible facilities modification permit, or pursuant to a deemed approved remedy, which facilities modification did not conform to zoning and/or development regulations, exclusive of this chapter, in effect at the time the completed eligible facilities modification application was filed.
- (2) Non-conforming Structure Determination. A facilities modification to which this section applies is subject to termination as a non-conforming structure upon the following conditions:
- (a) Final, Non-Appealable Decision. An appellate court, in a final and non-appealable decision, determines that §6409(a)(1) of the Spectrum Act is unconstitutional or otherwise determined to be invalid or unenforceable; and
 - (b) Notice of Non-Conforming Structure Determination. The City provides written notice to the applicant that the City has determined that the facilities modification did not conform to zoning and/or development regulations, exclusive of this chapter, in effect at the time the completed eligible facilities modification

application was filed and that the facilities modification constitutes a non-conforming structure pursuant to the provisions hereof and must be made conforming or the facilities modification terminated.

- (3) Conformance; Termination. Upon receipt of notice of the City's non-conforming structure determination, applicant shall abate the non-conformance by either, confirming the site to the zoning and development regulations in effect at the time the completed eligible facilities modification application was filed, or removing the facilities modification and returning the site to the condition that existed prior to the construction, installation, placement or erection of the facilities modification. The time period for conformance shall be one (1) year from the date of the City's notice of the non-conforming structure determination.
- (4) Health and Safety Codes. Nothing in this section shall relieve the applicant from compliance with applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.
- (5) Administrative Appeal. The applicant, or its successors or assigns, may appeal the City's determination of non-conformance to the City Hearing Examiner by filing a notice of appeal within _____ (____) calendar days of the date of the determination of non-conformance, excluding holidays.

19.30.110 Enforcement; Violation. Compliance with the provisions of this chapter is mandatory. Any violation hereof is subject to enforcement under the code enforcement provisions set forth at _____ of the City Code.

Section Two. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section Three. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication.

PASSED by the City Council this _____ day of _____, 2015.

THE CITY OF OAK HARBOR

Veto ()
Approve ()

By _____
Scott Dudley, Mayor

Dated: _____

Attest:

Anna Thompson, City Clerk

Approved as to Form:

Nikki Esparza, City Attorney

Published: _____

2016
COMPREHENSIVE PLAN
UPDATE

Workshop

**City of Oak Harbor
Planning Commission Report**

Date: July 28, 2015
Subject: 2016 Comprehensive Plan
Major Update – Land Use
Element

FROM: Cac Kamak, AICP
Senior Planner

Staff will continue the discussion on the update to the Land Use Element of the Comprehensive Plan. The Planning Commission workshop on June 17, 2015 identified the limitations of the current structure of goals and policies within the Land Use Element. Staff will discuss options for restructuring the goals and policies at his meeting. The discussion will be in a workshop setting to encourage a more dynamic discussion between the Planning Commission and staff.

