

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

ROLL CALL: **Present:** Bruce Neil, Keith Fakkema, Jeff Wallin, Gerry Oliver and Jill Johnson-Pfeiffer.

Absent: Greg Wasinger and Kristi Jensen.

Staff Present: Senior Planner, Cac Kamak and Associate Planner, Melissa Sartorius.

Chairman Neil called the meeting to order at 7:35 p.m.

MINUTES: MR. FAKKEMA MOVED, MR. OLIVER SECONDED, MOTION CARRIED TO APPROVE THE NOVEMBER 22, 2011 MINUTES AS PRESENTED.

PUBLIC COMMENT:

Richard Everett (651 SE Bayshore Drive) asked how to go about raising the issue of light pollution and get the City motivated toward improving the light pollution that exists in the City. Mr. Everett is a member of the local astronomy club (Island County Astronomical Society). He said the lights from Bayshore Drive and Pioneer Way make it difficult to see the sky at night. He offered to share information from the National Dark Sky's Association about how to deal with planning future projects so that they integrate newer style lighting that are in the proper bandwidth and shine downward.

Mr. Kamak said that the City currently has code language that addresses lighting. The code currently states that all parking lot lights should be downward facing and should have enough shields so that the light pollution doesn't go to neighboring properties. Mr. Kamak indicated that anything that goes through the permitting process has to follow the lighting guidelines but there may be projects that were completed before the current code was in place.

Mr. Kamak said the most effective way for Mr. Everett to get the City to respond to his light pollution concerns was to go through the application process that the City has for considering new code amendments.

2012 COMPREHENSIVE PLAN AMENDMENT DOCKET – Public Hearing

Mr. Neil reported that the Planning Commission will conduct a public hearing on the preliminary docket for the 2012 Comprehensive Plan amendment process. Planning Commissioners evaluated several discretionary items at their November 22, 2011 meeting and will make their final recommendation to the City Council as to which discretionary items should be placed on the 2012 Comprehensive Plan Amendment Docket.

Mr. Neil opened the public hearing.

Mr. Kamak reviewed the annual Comprehensive Plan amendment process which entails forming a preliminary docket with all of the ideas that have come forward. The preliminary docket goes through Planning Commission review which is what the Commission is doing tonight. Then the docket goes forward to City Council for review. When Council adopts the docket it becomes the Comprehensive Plan amendment work program for the staff to take on that year. Docket items are analyzed and researched and presented to Planning Commission for discussions April through August. At the end of August the information is compiled and sent to the State for a 60-day review period. At the end of the review period the State provides

feedback and then the items go back the Planning Commission for final recommendations to the City Council.

Mr. Kamak described the types of amendments that can be placed on the docket as follows:

Sponsored Amendments

Sponsored amendments are requests for changes initiated by the public through an application process. The most common amendments are land use changes. This year the city did not receive any applications. However, there is a request for a land use change this year. Since it is initiated by the Director of Development Services it is listed under the Discretionary amendments.

Mandated Amendments

Mandated amendments are changes that are either required by the State, GMA or by OHMC. The mandated amendments identified for 2012 as follows:

Capital Improvements Plan (CIP)

The Capital Improvements Plan is updated annually as part of the Comprehensive Plan amendment cycle. The updates to the Plan reflect the most recent and accurate information available. This normally includes updates to reflect consistency with adopted plans, updates to revenues and expenditures provided by the Finance Department, and any changes to schedules or project costs.

Shoreline Master Program (SMP) Update

This update is required by RCW 90.58.080. The city received a grant to update this plan and the process is currently underway. The City Council is expected to review and approve the update concurrent with the other 2012 amendments. The Department of Ecology reviews the SMP after City Council approval and provides the final approval of this Plan.

Comprehensive Plan Update 2015

This is the ongoing work that will lead to an update of the Comprehensive Plan in 2015 as required by RCW 36.70A.130. This is listed on the docket to track progress and identify opportunities for public involvement as well as coordination with other agencies on data related to population demographics, land use and capacities. No action is expected on this item for 2012.

Discretionary Amendments

Discretionary amendments are changes that the community desires to see in the comprehensive plan that are not mandated by the State or other agencies. This year the Planning Commission has suggested a few ideas to consider. The Director of Development Services has also added an amendment for consideration under this section.

The five proposed discretionary amendments and information for consideration for each proposed docket item are listed below (Planning Commission discussion follows each preliminary docket item):

- 1. Revisit the Commercial Lands Inventory done in 2006 and proactively look for opportunities to increase the inventory of commercially designated lands, including those available for large scale commercial enterprises. (*Planning Commission*)**

Information for Consideration:

- “Large scale” would have to be defined with a minimum size expectation. The last request for a large scale development was in 2006 for 33 acres.
- Undeveloped commercial lands are still available along SR 20 in Oak Harbor.
- Approximately 13.75 acres in 3 lots under one ownership was rezoned for Community Commercial in 2008 along Goldie Road west of NE 16th Avenue.
- The commercial lands inventory will need to be updated to determine the need and quantity for additional commercial lands.
- Related Comprehensive Plan Goals and Policies are listed in the staff report.

Planning Commission Discussion

Ms. Johnson-Pfeiffer asked if we would be looking at properties outside of the UGA. Mr. Kamak said that the scope of this project would have to be determined, meaning that if “large scale” means 10 acres we can look at 10 acre parcels in the City if “large scale” means 30 acres we know that there are no 30 acre parcels in the City and we would have to look for the best place outside of the City.

Ms. Johnson-Pfeiffer asked when the next UGA process would be. Mr. Kamak said that we would be doing another capacity analysis in 2015 because the new population projections will be in and the County will be doing this as well. It is the County’s decision as to whether the UGA boundary is expanded or not.

Mr. Johnson-Pfeiffer reasoned that if “large scale” means 10 acre parcels we have some 10 acre parcels in our existing boundary. If we are talking about larger parcels then we have to have the UGA conversation which comes around in 2015 so it seems premature to have this item on the docket right now.

Mr. Fakkema agreed with Ms. Mr. Johnson-Pfeiffer reasoning.

2. Review the non-enterprise funded projects listed in the City’s Capital Improvement Plan which currently includes projects such as but not limited to Windjammer Park Redevelopment, Municipal Pier, Special Events Center, etc. and determine their current relevance and need. (*Planning Commission*)

Information for Consideration:

- Implementation of projects in this list has been based on funding opportunities and less on the assigned priorities.
- Changes can be discussed as part of the annual mandated update to the Capital Improvements Plan.
- Some of the projects placed on the list are from other approved plans.
- Related Comprehensive Plan Goals and Policies are listed in the staff report.

Planning Commission Discussion

Mr. Oliver asked; if we feel it necessary to build up the waterfront to help with tourism is there something the Planning Commission could do to spur that? Mr. Kamak said that those thoughts could be brought up during this discussion and even if those ideas don’t make it on the list it will trigger a process to consider those types of projects.

Ms. Johnson-Pfeiffer asked if the prioritization was done by Council or the Planning Commission and whose responsibility it was to prioritize the projects. Mr. Kamak said the prioritization was initially done by the Council with the funding in mind but staff could ask the Council if they would like the Planning Commission to make a recommendation for prioritizing the projects.

Ms. Johnson-Pfeiffer commented that the Council is accountable to the citizens, not the Planning Commission, so priority setting is a Council function versus a Planning Commission function. Mr. Kamak said the Planning Commission is an advisory body so the Commission could make recommendations to the Council. Planning Commission public hearings gather comments from public which reveal the public interest and provides and additional criteria for review to the City Council other than just dollars and cents.

3. Review if the current Comprehensive Plan goals and policies adequately identify and protect view corridors within the City. (*Planning Commission*)

Information for Consideration:

- View Corridors are identified in Map 3 of the Parks, Recreation and Open Space Element in the Comprehensive Plan.
- There is existing language in the Comprehensive Plan for protection of viewsheds and corridors.
- Related Comprehensive Plan Goals and Policies
 - Urban Design Element - Goal 5 - Protect viewsheds and view corridors:
 - Discussion - The City of Oak Harbor defines viewsheds as a panoramic view from a single location. Significant viewsheds include views of Mt. Baker, Mt. Rainier, Cascade mountain range, Olympic mountain range, Oak Harbor Bay, Maylor Point (especially wooded and tidal flat areas) and Saratoga Passage. The view corridors and viewsheds within the City should be identified and accurately mapped at a useable scale so they can appropriately guide development.
 - Policy: 5.a Consideration of building impacts on viewsheds and view corridors shall be exercised in all developments, and mitigation measures shall be applied to protect existing views.
 - Discussion: The City may incorporate policies and guidelines to protect these resources, such as developing: a unified bulk program for building envelopes; performance based zoning; and, density bonuses as development incentives.
- Current zoning regulations for height limitations in the Central Business District are a result of a view study done in 1999. There is specific language in the code for additional review of buildings in the CBD that would like to exceed height limitations specifically to protect views (OHMC 19.20.320.8(d)).
- The existing code language was used in the recent past to evaluate the Flemming Project proposed in the Central Business District. Though this project was not implemented, the review shaped the design to protect views from SE Jensen Street.

Planning Commission Discussion

Ms. Johnson-Pfeiffer pointed out the condominium development at the intersection of Scenic Heights Street and SR-20 which blocked a significant view corridor to the harbor. She asked if there was code language that dealt with that development. Mr. Kamak said that the zoning code has height limitations and there was a study done in 1999 for the downtown where they

tied balloons on buildings to a certain height and they went to various places within the view corridors to see if they could see the balloons. This study resulted in the 35 foot height limitation in the downtown. There are some clauses for allowing a building height of a maximum of 55 feet if certain conditions are met. Mr. Kamak added that he wasn't sure if this study included Scenic Heights but most of the zoning districts have been based on the study and even the industrial districts have a height limitation of 35 feet.

Ms. Johnson-Pfeiffer indicated that view corridors are important because once they are built up you can't get them back. As more focus is put on building up the waterfront we need to understand the potential consequences further inland to the town. She wanted to make sure that we don't wake up 20 years from now and lament that we used to be able to see the water from our town and now only a few can. The condominiums on Scenic Heights and SR-20 have diminished a prominent view corridor. Now when you enter Oak Harbor from the south the first impression of the community after coming off of a very rural drive down the Island is a highly intense development feel the minute you enter our community and that can't be changed now.

Mr. Kamak said that this is a classic example of balancing property development rights and protecting the public interest. On one hand we look for infill development and higher density and everybody wants Oak Harbor to be more dense and not to sprawl so we are looking at more density and when we go with more density, especially if we expect our population to increase, we are looking at how much more we can squeeze into a limited space and usually it is to build higher and that is why the height limitation is capped to try and do exactly what Ms. Johnson-Pfeiffer is trying to do. At this point do we want to say that we what to go lower, if so, what does that mean for the community? There is also zoning which comes into play. The zoning for the parcel that the condominiums were built is R-4 which carries a higher density. The discussion turned to how zoning has been done historically nationwide and how it has evolved. The movement has been from completely separating uses to now mixing uses to reduce sprawl. Therein comes the challenge between people living and working in the same zoning district.

Mr. Wallin and Mr. Oliver suggested that there needs to be a community discussion and a review of the zoning for the City which becomes a larger discussion than just view corridors.

Ms. Johnson-Pfeiffer said, in the context of view corridors, if the corridors were mapped out and clearly defined and adopted wouldn't the fallout be laying the view corridor over the top of the zoning map, and if there was any zoning that would hinder a view corridor then that would trigger a conversation about rezoning. Ms. Johnson-Pfeiffer went on to say that knowing what the County is saying about density and this pressure to have density it is not just about how much building you can put on the land but also where does your eye go for relief. Where are the views that our eyes naturally go to that offer some relief from this urbanization? If we map those view corridors and adopt them and say that these are the things that we as a community prioritize in terms of visual relief and say don't build here because this is a community priority to preserve this community view. Mr. Kamak said that we could do that but that does come with laying it on top of properties in a city that is already zoned for a particular density. Ms. Johnson-Pfeiffer went on to say that she believed there were property owners who are in APZ zones now who owned property for years who had to deal with that reality. This is a hard conversation but I

sure get it and I respect property rights but at the same time I'm also a community member who feels I should be able to see something and it should not always necessarily be someone's right to over develop an area or live in a community that is being told by a county that we have to overdevelop an area. If we don't clearly identify the corridors and document the community value for preserving the views we have nothing to defend our position from the pressure to urbanize. Mr. Kamak reiterated that the 35 foot height limit is based on that limitation and view corridors have been mapped along public properties and right-of-ways. For example, as you approach Oak Harbor from the north by the Best Western you can see the Olympic Mountains, that is noted as a view corridor. We can do that from public venues like parks and public right-of-ways. Ms. Johnson-Pfeiffer said that she understood the protection of private property rights but if we are a community the pushes forward a value of tourism, quality of life and all of these intangible things that we have written in the Comprehensive Plan and then we are going to develop at urban densities that cut off those connectivity points, which one are we going to be? Are we going to work toward water connectivity and be this waterfront community? If that is a core value then I think we have to have preservation of those values. Or if we are going to say we've got to be dense we don't want any sprawl, we have to pack them in then the consequence is going to be a loss of water connectivity. Going back to the development on Scenic Heights and SR-20 it might be 35 feet but when that other building goes up you are going to have a hard time telling me that any consideration was given to a view corridor at that corner and we have lost that connectivity to the water under the existing view corridor language that we have now. Mr. Kamak said that we have goals and policies that give importance for protection but how it transfers to implementing code is the question. So we have goals to protect view sheds and what we have currently in implementing that are the zoning regulations. So what the Planning Commission should consider in moving this forward on the docket is if the current code language is not sufficient to protect the view corridors then the code is what we should look at. If the code language is not sufficient then we should look at having more regulations or a higher regulation in order to protect view corridors before they are lost and then we have to identify the view corridors first as well as other view corridors than what is currently in our Comprehensive Plan and the properties that would be impacted.

4. Review if the current Comprehensive Plan goals and policies adequately protect the City from the proliferation of signs. (*Planning Commission*)

Information for Consideration:

- Current codes on signs are based on existing goals and policies in the comprehensive plan.
- The sign code determines the number and type of signs that are permitted based on frontage, size of buildings, number of businesses etc.
- The existing code also addresses temporary signs.
- Sign regulations are enforced on a complaint basis.
- Related Comprehensive Plan Goals and Policies are listed in the staff report.

Planning Commission Discussion

There was discussion as to how this item was raised for inclusion on the preliminary docket and whether this issue could be studied in conjunction with the temporary sign code revision that is currently underway.

5. **Shoreline Master Program Amendment and Land use change for properties (R13201-160-0920, R13201-072-1040 and R13201-067-1150) located on SE Catalina Drive south of Pioneer Way (map attached). This item would consider various land use designations, potentially even an overlay zone, with the intended goal to permit a variety of uses to promote upland improvements adjacent to the Marina including options for industrial uses such as Nichols Brothers Boat Builders. The current land use designation is Public Facilities. (Planning Director)**

Information for Consideration

- Based on recent interest in the community to provide opportunities for water related industries to locate in Oak Harbor along the shoreline.
- Continuing to implement the Marina Redevelopment Plan that recommends upland improvements with uses that support water recreation and the marina.
- This Shoreline Master Program *Amendment* is different that the Shoreline Master Program *Update*. The *amendment* will follow a different timeline and will be ahead of the *update*.

Mr. Neil asked for public comment.

Billie Cook (651 SE Bayshore Drive) commented on proposed docket item to review the non-enterprise funded projects listed in the City's Capital Improvement Plan. Ms. Cook asked the Commission consider Windjammer Park and the Bayshore Drive alignment that is currently in the Comprehensive Plan as well as fixing the intersection at Bayshore Drive and City Beach Street. The intersection has become much worse since the traffic has increased due to Pioneer Way becoming a one-way street. She hoped that the Bayshore Drive alignment would be placed as a high priority on the list. Ms. Cook also raised the need for upgrades to the existing restroom and the picnic shelter in Flintstone Park. She said that the park is very nice and highly used but the facilities are falling apart.

Mr. Neil encouraged Ms. Cook to continue attending meetings and providing comments as this process moves forward.

Mr. Neil closed the public hearing.

MOTION: MR. WALLIN MOVED, MR. FAKKEMA SECONDED A MOTION TO RECOMMEND THAT THE CITY COUNCIL PLACE ALL THREE MANDATED AMENDMENTS ON THE 2012 COMPREHENSIVE PLAN DOCKET. MOTION CARRIED.

MOTION: MR. OLIVER MOVED, MR. WALLIN SECONDED A MOTION TO RECOMMEND THAT THE CITY COUNCIL REMOVE THE REVIEW OF COMMERCIAL LANDS INVENTORY FROM THE 2012 COMPREHENSIVE PLAN DOCKET. MOTION CARRIED.

MOTION: MS. JOHNSON-PFEIFFER MOVED TO REFER REVIEW OF THE NON-ENTERPRISE FUNDED PROJECTS LISTED IN THE CITY'S CAPITAL IMPROVEMENT PLAN BACK TO THE COUNCIL FOR FURTHER CLARIFICATION ON PLANNING COMMISSION ACTION.

Planning Commission Discussion

Ms. Johnson-Pfeiffer asked if the item could be referred back to the Council to ask if they wanted the Planning Commission to prioritize the list or not. Mr. Kamak said that it would be appropriate to recommend the review of the non-enterprise funded projects list for the docket and whether prioritization happens at the Planning Commission or the Council either way the list can be looked at.

MS. JOHNSON-PFEIFFER WITHDREW THE MOTION.

Mr. Neil asked Mr. Kamak if the Planning Commission recommends that the non-enterprise project list be reviewed will staff also ask for direction as to whether the Council would like the Planning Commission to review the list. Mr. Kamak said that staff would pose the question to Council and the Council would also have the minutes of the Planning Commission's discussion.

MOTION: MS. JOHNSON-PFEIFFER MOVED, MR. FAKKEMA SECONDED A MOTION TO RECOMMEND THAT THE CITY COUNCIL REMOVE THE REVIEW OF THE NON-ENTERPRISE FUNDED PROJECTS LISTED IN THE CITY'S CAPITAL IMPROVEMENT PLAN FROM THE DOCKET.

Planning Commission Discussion

Mr. Fakkema said that the reason for his second lies more in how much more work can staff absorb. It appears that looking at the list isn't going to change anything other than a possible revamping of the priorities which he believed Planning Commission has no responsibility or authority for. Mr. Fakkema wondered how much work should be put into what he believed would be a wasted effort.

Ms. Johnson-Pfeiffer agreed with Mr. Fakkema's sentiments and believed that it was not the appropriate year for this conversion.

Mr. Oliver said that Mr. Kamak said that he thought it would be appropriate to put this on the docket.

Mr. Kamak said that from a staffing analysis perspective he thought that this was one of the discretionary items that staff could accomplish with the update of the Capital Improvement Plan.

VOTE ON THE MOTION: MS. JOHNSON-PFEIFFER, MR. FAKKEMA AND MR. OLIVER VOTED IN FAVOR OF THE MOTION. MR. WALLIN OPPOSED. THE MOTION CARRIED.

MOTION: MR. OLIVER MOVED, MS. JOHNSON-PFEIFFER SECONDED, A MOTION TO RECOMMEND THAT THE CITY COUNCIL PLACE THE REVIEW OF WHETHER THE CURRENT COMPREHENSIVE PLAN GOALS AND POLICIES ADEQUATELY IDENTIFY AND PROTECT VIEW CORRIDORS WITHIN THE CITY ON THE 2012 COMPREHENSIVE PLAN DOCKET.

Planning Commission Discussion

Mr. Fakkema commented that there are zoning restrictions, height restrictions and setback restrictions in place. All of which impact persons property and if we further restrict development rights we could open ourselves to a lawsuit. Mr. Fakkema said he sympathized with Ms. Johnson-Pfeiffer's sentiment but our real recourse is to buy the property as a City. We need to

have a mechanism to acquire property to protect views. What we have in place is all the protection that we can do at present so he would not be in favor of keeping this item on the docket.

Johnson-Pfeiffer stated that she just wanted to know clearly what the view corridors are and she didn't feel that we knew clearly enough what the view corridors are.

VOTE ON THE MOTION: MS. JOHNSON-PFEIFFER, MR. WALLIN AND MR. OLIVER VOTED IN FAVOR OF THE MOTION. MR. FAKKEMA OPPOSED THE MOTION CARRIED.

MOTION: MR. OLIVER MOVED, MR. FAKKEMA SECONDED, A MOTION TO RECOMMEND THAT THE CITY COUNCIL REMOVE FROM THE 2012 COMPREHENSIVE PLAN DOCKET THE REVIEW OF THE CURRENT COMPREHENSIVE PLAN GOALS AND POLICIES FOR ADEQUACY IN PROTECTING THE CITY FROM THE PROLIFERATION OF SIGNS. MOTION CARRIED.

MOTION: MS. JOHNSON-PFEIFFER MOVED, MR. WALLIN SECONDED, A MOTION TO RECOMMEND THAT THE CITY COUNCIL PLACE THE SHORELINE MASTER PROGRAM AMENDMENT AND LAND USE CHANGE FOR PROPERTIES LOCATED ON SE CATALINA DRIVE SOUTH OF PIONEER WAY ON THE 2012 COMPREHENSIVE PLAN DOCKET.

Planning Commission Discussion

Mr. Oliver asked if the intent was to make the marina area more recreational as well as providing more opportunities for economic growth. Mr. Kamak said that the idea is to make it convenient for someone who thinks that there is a market there to invest there. As it stands now they would have to go through a zoning change.

Mr. Oliver asked if a mobile commercial entity (e.g. kayak rental) could set up there as the code is written now. Mr. Kamak said that the code may not directly permit that but there is room for interpretation because Public Facility zoning allows recreational uses so as long as the entity is recreation related it might be allowed as a temporary use. If a building permit for construction is needed then it would be looked at differently.

Mr. Oliver asked if Nichols Brothers could do what they want to do as the code is written today. Mr. Kamak said no.

Mr. Fakkema asked, if from the Nichols Brothers standpoint, is it a temporary concept or are they thinking about a permanent concept. Mr. Kamak said that he didn't have accurate or full information but from what he has heard they have a current contract that is for about seven or eight years. In that seven or eight year will they get additional contracts, we don't know.

VOTE ON THE MOTION: MOTION CARRIED UNANIMOUSLY.

ADJOURN: 9:15 p.m.