



PLANNING COMMISSION

AGENDA

November 22, 2011

ROLL CALL: NEIL _____ JENSEN _____ FAKKEMA _____
 WASINGER _____ OLIVER _____
 WALLIN _____ JOHNSON _____

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1. **Approval of Minutes – October 25, 2011**
2. **Public Comment** – Planning Commission will accept public comment for items not otherwise on the agenda for the first 15 minutes of the Planning Commission meeting.

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3. **SIGN CODE UPDATE – Public Meeting**
The Planning Commission will continue its discussion of amendments to OHMC 19.36.080 (“Temporary and Special Signs”). Staff will address Planning Commission questions from the October meeting and facilitate further discussion about amendments to the temporary sign code section. The proposed code amendments address time, manner, and place provisions for temporary signs, especially political signs, located on public property.

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4. **2012 COMPREHENSIVE PLAN AMENDMENT DOCKET – Public Meeting**
The Planning Commission will discuss topics of interest to consider during the 2012 Comprehensive Plan Amendment cycle. The Comprehensive Plan is a document that establishes the community vision for Oak Harbor. The discussion may lead to a future recommendation on 2012 amendments that will then be added to the preliminary docket for further consideration.

MINUTES

October 25, 2011

**PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
October 25, 2011**

ROLL CALL: **Present:** Bruce Neil, Keith Fakkema, Jeff Wallin, Greg Wasinger, Kristi Jensen and Jill Johnson. **Absent:** Gerry Oliver.
Staff Present: Development Services Director, Steve Powers; Senior Planners, Ethan Spoo and Cac Kamak and Associate Planner, Melissa Sartorius.

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

MINUTES: MR. FAKKEMA MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO APPROVE THE SEPTEMBER 27, 2011 MINUTES AS PRESENTED.

PUBLIC COMMENT:

No comments.

SIGN CODE UPDATE – Public Hearing

Mr. Spoo reported that Planning Commission will have at least two meetings on this topic. This month staff will present some background, shortcomings of the existing code, principles for new code language and initial research. Next month the draft code will be presented.

Background

On July 12, 2011, the City Council adopted an interim ordinance. Interim ordinances are effective for a period not to exceed six months. The interim ordinance deleted a provision in the “Temporary and Special Signs” code that limits placement of political signs to “a period of 60 days preceding the election”. By January 12, 2012, the City Council must either extend the interim ordinance for another six months accompanied by a work plan or adopt a permanent ordinance.

Shortcomings of the Existing Code

Mr. Spoo pointed out that section 19.36.080(8)(d) prohibits political signs on public property and 19.36.080(8)(a) establishes that a time limit of 60 days preceding an election. *Collier vs. City of Tacoma*, has established that political signs must be allowed on certain types of public property subject to time, place, and manner restrictions and pre-election time limits have been deemed to be unconstitutional.

Planning Commission Questions

Mr. Neil asked if the Collier case means that someone can put a political sign up three years before the event. Mr. Spoo answered yes, that is our understanding.

Mr. Neil asked if they can put up a sign in Windjammer Park. Mr. Spoo answered yes, parks are considered to be public fora, but that doesn’t mean there can’t be certain restrictions for where the signs can go.

Mr. Spoo continued; there are different types of public property. Some of those locations are appropriate for placement of political signs and some are not. The way the courts have distinguished between these types of public property is using something called forum analysis. There are three different types of public forums: traditional public forums, limited public forums, and non-public forums.

Traditional public forums are places where public debate has traditionally been allowed in the past. The public right-of-way is one of those places. Think marches, rallies, etc. Limited public forums are places where public debate and signage might be appropriate at some times, but not others. Finally, there is what is called a non-public forum where political signage and debate is clearly not allowed. An example would be a police car. Clearly, this would detract from the police car's main purpose. Even though we have different classes of public property, the community can impose time, manner, place restrictions subject to legitimate government purpose, as long as those restrictions aren't any more restrictive than necessary.

Mr. Spoo outlined some of the time, manner, place restrictions that are proposed for the new code. Mr. Spoo explained that the pre-election time limit will be removed since pre-election time limits are not permissible. Manner restrictions can be applicable subject to a legitimate public concern. Safety has been seen as a legitimate public concern (limiting the size and the height of signs in the public right-of-way so that drivers can see pedestrians, bicyclists, etc.). Place: the same safety principle applies. You don't want signs at locations that obstruct views and visibility and you also don't want the signs in traffic lanes. So we will be proposing restrictions to only allow signs to be placed in the public right-of-way or on the sidewalk at appropriate locations.

Mr. Spoo provided, for the record, a letter (Attachment A) to the Planning Commission from the American Civil Liberties Union of Washington (ACLU) which was given to the Planning Commission at the pre-meeting. The letter expresses concern about the City's retention of a post-election time limit of seven days on political signage.

Mr. Spoo provided another handout (Attachment B) to the Planning Commission which supported retention of the post-election time limit. The handout came from the Municipal Research Services Center of Washington (MRSC).

Planning Commission Questions/Discussion

Mr. Neil asked if someone could put up a political sign on the City of Oak Harbor entrance sign or on the trees along SR20 and if the signs could stay up there forever. Mr. Powers explained that tonight the Planning Commission is being presented with a couple of concepts that have to be addressed. It is complicated and there are many court cases that help form the case law that the City has to respond to. The short answer is that the community is able to limit the placement and the length of time on the signs if the community can clearly articulate a public purpose behind those limitations. As for the example of the trees along the highway, there is a public purpose in saying that you can't nail your sign to the public's tree. There is a public investment, community ideal and goal that is part of the landscaping theme. So we could probably successfully limit the ability for someone to nail their sign to the public's tree.

Ms. Jensen asked staff to provide the State's definition of pre-election and asked if there was a certain time that a candidate would have to register as a candidate? Ms. Johnson also commented that there are candidates that file immediately for fund raising purposes, so there are perpetual candidates which make the post-election time limit open to question.

Mr. Spoo indicated that he may be able to get a definition in the State law but that his impression was that you cannot impose any pre-election time limit. In most cities this issue works itself out practically because generally a candidate won't buy signs three years ahead of an election.

Mr. Powers pointed out that you can have political speech without being a candidate, so trying to say that the sign shouldn't go up until they file declaring their intention to run for election is a limitation on that speech.

Ms. Johnson asked if there is a definition of a political sign. Can a sign say "I don't like the military", "I don't like war", "I don't like police" or "I don't like whatever". We are assuming these are advocacy signs but what if they are signs in opposition of a value that this community holds closely. Are those signs allowed in public spaces at any time as long as they meet the height requirement?

Mr. Powers said that his operating assumption would be that all of that is political speech and protected in some fashion. The question is what community standards that the citizens of Oak Harbor would like to see put into the code that address time, manner and place but not content. This is why we made a special effort to say political signs and elections signs because it can be a particular candidate or a particular topic.

Mr. Wallin asked if we can address the quantity of signs.

Mr. Spoo said he didn't think that you can limit the number of signs, for instance, an apartment complex may have 15 apartments with 15 people that might want to put up signs up regarding 10 different issues each and to say that there can only be two signs per property could be challenging.

Mr. Neil asked if the code will apply to the dancing pizza signs.

Mr. Spoo replied, those signs would fall under the temporary signs category and you have to treat commercial and non-commercial speech the same and they would be subject to the same restrictions that apply to political signs.

Mr. Powers explained that staff has tried to narrow the scope of what we are dealing with. Political signs are in the category of temporary signs so we will need to address all of the standards that relate to temporary signs which include A-frame signs, but he didn't know that we will get into the dancing pizza signs. We are not proposing any amendments to the permanent signs.

Ms. Johnson asked if temporary signage means the way it is designed or the length of time that it is up.

Mr. Powers indicated that there are definitions in the code that relate to the length of time and structural make-up (signs that can be easily put in place and removed).

Ms. Johnson asked if there can be a timeframe on commercial speech but not an individual's right to speech.

Mr. Powers said that there are questions about whether commercial speech needs to be treated the same as political speech. That is a topic that is outside the scope of this particular amendment. Our immediate concern was responding to the issue raised that led to the interim ordinance being adopted. But it is likely we will have to address that in the future.

Ms. Johnson and Mr. Neil felt that free speech should extend to businesses, candidates and individuals equally and asked how you could have a different set of criteria for business than we have for candidates.

Mr. Powers clarified that we can't regulate separately or differently on content. In the temporary sign aspect we will have to treat all signs that go on public property in a uniform fashion and all signs that go on private property in a uniform fashion. The challenge is to figure out what the community wants to see in the regulations that we can reasonably pin to time, place and manner.

Mr. Wasinger asked who is in charge of policing signage.

Mr. Powers said that the sign code is in the zoning title of the Municipal Code so it falls under the Development Services Department in a couple of different aspects. The Building Division issues permits for those signs that require permits. For those signs that don't require permits and are placed illegally, the Building Division will also operate as our code compliance arm of the City. So they notify the people that the signs are placed inappropriately.

Ms. Jensen asked what Tacoma did.

Mr. Spoo said that Tacoma did the same thing that we are doing which is to remove the 60 day pre-election time limit and they also had to allow political signs within planter strips, public sidewalks and parks.

Ms. Jensen asked how Tacoma's code reads now to comply with the court case and make the people of Tacoma happy.

Mr. Spoo said that it may not have made the people of Tacoma happy and we understand that there are some issues that we have to deal with in the community in which the direction to us is fairly strong. Mr. Powers reminded the Commissioners of the discussion regarding adult entertainment and the process by which we put regulations into place as a community and in some sense those arguments are the same. This is one of those issues that the Commission cannot just say no to, but what we can do is to try to tailor those regulations so they apply to the City of Oak Harbor in as good a way as possible. That theory worked for adult entertainment regulations. That same sort of thought process can work for the temporary signs.

Ms. Jensen asked if we can designate certain planter strips or certain parks.

Mr. Spoo indicated that you have to have a legitimate public purpose; safety is generally considered the legitimate purpose. Mr. Powers added that aesthetics is much tougher to argue but not necessarily impossible. We have to be able to clearly articulate what those reasons are. From the aesthetics standpoint it would have to clearly be based on some existing standards or policies that the City has in place that get to the issue of community design and aesthetics. Even then it might not be successful.

Mr. Powers concluded the discussion by noting that the meeting has accomplished its goal which was to get the Planning Commission's comments and creative juices flowing. Staff will find other codes that are compliant with the case law to provide good examples for the Commission to see how other communities have responded to this particular challenge. Commissioner's suggested looking at communities of similar size.

Ms. Jensen asked about the sign limitations for residential directions “Open House Signs” that was highlighted on page 12 of the agenda packet. Mr. Spoo said that section was highlighted because that is one of the only other types of signs in the existing code that was allowed in the public right-of-way and had a limitation on the number of signs. The limitation on the number of signs will probably be deleted in the draft code.

Mr. Wallin commented that if we are going to allow signs in the public right-of-way can we put limitations on the way that the signs are put in the ground? If there is a planter and you put 50 signs in a public planter, the planter will be trashed.

Mr. Powers thought that would be a budget issue to the community because the City would have to repair the damage. The City would be better served by setting the parameters for the structure of a sign that could go there.

Ms. Jensen commented that the Planning Commission was uncomfortable with open-ended regulations because they are thinking of the person that will take advantage and the negative effect it could have on the City.

Mr. Powers acknowledged the struggle that the Planning Commission has with topics that relate to aesthetics and design and that it is natural for the Commission to worry about what will result if the bar isn't set high enough in terms of the design of a building or the character of landscaping or the character of a housing development. It is very understandable that the Planning Commission would express concerns about aesthetics.

Ms. Jensen also noted the discomfort in allowing signs that are anti something that is close to the community's heart. Mr. Powers reminded the Commission that fundamentally it is a free speech issue and the citizens have the right to express their opinion on a topic, event or issue so we can't only have signs that say “hooray” for something without allowing signs that say “boo” to something.

CAPITAL IMPROVEMENT PLAN 2011-2016 – Public Hearing

Mr. Kamak reported that the 2011 Comprehensive Plan Amendment Process began in October 2010. Call for projects was advertised in November 2010, no applications for sponsored amendments were received so the only items on the docket were the continuing work on the UGA Capacity Analysis and amendments to the Capital Improvements Plan (CIP). The UGA Capacity Analysis is still in work and there is a hearing at the end of the month that will hopefully create a framework for continued work on the UGA Capacity Analysis with the County. So the UGA Capacity Analysis will remain on the docket for two or three years while work continues. We hope that by 2015 there will be some sort of resolution coming forth.

The CIP is updated every year and what is normally updated are the project lists. As projects are completed and new projects are added during the course of the year through Council action, those projects are added to or deleted from the list. This year there are minor amendments to the plan. The years are updated to reflect the planning period 2011-2016, financial numbers get updated every year to reflect current revenues and expenditures. The Pioneer Way project is being removed from the list as it is close to completion as well as the revenue and expenditures associated with the project. Projects schedules have also been updated.

Some of the major projects that will be coming forward in the next six years are the NE 7th Avenue improvements and the SE 4th Avenue waterline replacement and street improvements. In terms of parks, the Windjammer Park has a lot of structures that are coming to the end of

their lifespan so some of those buildings will need to be replaced. Trail connections and extensions will be pursued as opportunities arise as well as acquiring new park land to accommodate the population. The waste water treatment plant and the 42-inch outfall are also coming forward. Other updates include an update to reflect the City Council's decision to return the federal grant for the Municipal Pier project but to keep the project on the books. The cost for the Marina Redevelopment project was updated to reflect the gangway and dredging improvements.

Mr. Kamak provided updated pages to reflect a change in the Animal Shelter situation. Originally it was thought that the shelter could stay on Navy property since the gate security was removed but now the gate security has been reinstated and brings back the need to find a place for the shelter in the City.

The one addition to the project list is the old high school stadium along Midway Boulevard. There is a possibility of the City using that facility. The old stadium is in an area that has been identified in the Parks and Recreation Plan that has a need for a park. Minor improvements can be made to use the facility as a neighborhood/community park.

Planning Commission Questions

Ms. Jensen asked why we have to have a levy for the pool and not for the other park areas.

Mr. Kamak explained that the pool is maintained by the North Whidbey Parks and Recreation and they are different from the City.

Ms. Johnson asked how we have money for acquisition but not for maintenance of parks.

Mr. Powers explained that the State says that certain funds can be used for acquisition and certain funds that can be used for maintenance. Impact fees are restricted funding sources that can be used for acquisition of land, development of new parks and if we can reasonably demonstrate that new improvements in existing parks are necessary to serve new growth. Under State law we were only allowed to hold those impact fees for six years. Last year the legislature pushed it out to a ten year time limit. If we don't use it within that time we have to return it to the developer or whoever contributed those funds. We cannot use impact fees for maintenance and upkeep of existing parks. Only general fund dollars can be used. Now there is some ability to use real estate excise tax. So what you see is an imbalance in which a community may have funds to put new things in place yet lack the funding to take care of what they already. Additionally, there is a direct reflection of the amount of sales tax and property tax that the City is able to have in their general fund.

Mr. Powers explained the difficulties generating sales tax compared to other communities our size because of the influence of Naval Air Station and property tax increases being limited to 1% a year which limits the amount of money coming into the general fund. The top two users of general funds are police and fire and the next user is the parks system.

Mr. Fakkema asked if the Planning Commission could recommend that some of the old high school stadium property be set aside for a performing arts center.

Mr. Kamak said that there would be an opportunity to make that recommendation when the parks plan is updated in the near future.

Mr. Wallin asked if there has been any discussion about relocating the bus barn portion.

Mr. Kamak said that the latest discussions have been that the bus barn will remain because the School District doesn't have enough space to move the buses elsewhere.

Ms. Jensen asked if there was an agreement with the property owner that the property has to stay with the School District or else it has to go back to the property owner.

Mr. Powers believe that the agreement was that the property has to be used for recreational purposes.

Mr. Wallin asked if the City would be taking over the maintenance for the buildings.

Mr. Kamak said no. Mr. Powers added that there is an agreement with the School District, the City and the County that they all share in the maintenance responsibilities from a funding perspective. The City is looking at the opportunity for picking up the maintenance of the facility so that we know that we can continue to have it as a community asset and looking at how we can arrange a new agreement so that the facility can be taken care of.

Mr. Neil opened the public hearing.

Ms. Johnson said she was not clear on what the Planning Commission was doing and what the CIP was about. She asked if the decisions were already made or if the Planning Commission was supposed to share their thoughts about the content. She asked if this was a review of what has already been done.

Mr. Kamak explained that most of the projects in the CIP have been in the plan for a number of years and the annual update is intended to update the numbers, policy direction on anything that the City Council has done in terms of changing course and to reflect those changes in the CIP document as a Comprehensive Plan amendment. The CIP is part of the Comprehensive Plan and it is updated every year to keep it current.

Ms. Johnson asked if a project on the list becomes a pressing issue does it become a viable project or does the project get done just because it is on the list.

Ms. Johnson also asked about the special events center, senior center and Chamber office listed on page 51. She wanted to know why these three items were listed separately and could they be combined.

Mr. Powers explained that the majority of the projects come from the City's other planning efforts (Water System Plan, Storm Drain Plan, Sewer Plan, Parks and Recreation Plan and the Transportation Plan). They all feed projects into the CIP. The Growth Management Act requires that cities and counties look at the projects that are necessary to support the anticipated growth. All the projects are listed along with the funding sources and consider whether we can reasonably do these projects within a six year period of time or at least continue to plan for them in that period of time so that they track with new growth. The table that Ms. Johnson is referring to shows the list of non-enterprise activity projects which came out of a project prioritization process which happened about five or six years ago. The Council spent a lot of time looking at the wish list of community projects and capture them all in one spot within the CIP so that we could at least keep our eye on them and put some cost information with the projects. Additionally, they went through a prioritization process that started with the

Comprehensive Plan Task Force, then to the Planning Commission and on to the City Council. A new Senior Center for example, had been talked about in the community in a separated planning process and made its way on to this list because the Council was trying to get them all together. The special events center was something that came to us out of the Windjammer planning effort and got onto the list because it was one of the major capital needs that the Council had identified. At some point the Council may decide that they need to go back in and reprioritize the projects with the community. We have purposely not adjusted the priorities because from a staff perspective that was outside of our purview because that is a much larger process.

Ms. Johnson commented, so this is kind of a tickle file.

Mr. Powers said it is and it is also an attempt to keep our eye on the projects that we know that we have to do from a growth perspective versus the things that the community may want to do and how are we going to portion out the General Fund dollars. For example are we going to spend those dollars on parks maintenance or are we going to spend them on a new City Hall?

Mr. Kamak addressed Ms. Johnson's question about combining projects. Mr. Kamak said that if there was an opportunity to have a special events center then the possibility of combining other projects there would have to be community input and then reprioritize.

MOTION: MR. FAKKEMA MOVED THAT THE PLANNING COMMISSION MAKE A RECOMMENDATION TO THE CITY COUNCIL TO APPROVE THE 2011-2016 CAPITAL IMPROVEMENT PLAN.

MR. WALLIN SECONDED THE MOTION.

Discussion

Ms. Jensen asked if the Planning Commission recommended approval would prioritization stay the same as it currently is in the CIP.

Mr. Fakkema said that he understood that there really isn't a priority and just because it is number one on the list doesn't mean that it is number one on the City's list.

Mr. Powers said that the priorities were established by the Council when the list was initially put in place but as we have seen, given an opportunity to pursue a lower ranked project versus a higher ranked project if funding and the situation aligns, the Council has the opportunity to direct staff to pursue that project.

Ms. Johnson asked if a Commissioner had a concern about any item on the list or the order that an item appears on the list should they be concerned about recommending approval. Should they deal with it now or wait until the individual item comes back around then say something.

Mr. Powers said that if the Planning Commission as a body or as a member has a concern with a particular project or the order of the projects it is appropriate to put that out this evening. That can be part of the recommendation put forward to the Council, assuming that the rest of the members agree. As a Planning Commission you may be able to address a project at a later point if that project comes through a particular permitting process or if the project is discussed with the Planning Commission. The third opportunity is, since we do this on an annual basis, the Commission could work on this over the course of next year so that that following year's recommendation on the Plan the Commission could recommend something different to the Council. Mr. Powers said he didn't want to discourage anyone from making a motion this

evening that says something different should be done with the document because it is absolutely within the Commission's purview.

Mr. Wallin commented that it was highly unlikely, in the current economic state, that any of the non-enterprise projects would come forth.

Mr. Power acknowledged that Mr. Wallin was probably right and the only exception might be the marina project because that is funded by the marina rates and that it would be phase three of the project.

Ms. Jensen said that the marina appears on the top of every single list we have and you're saying that the marina funds itself but then it is on the top of every list.

Mr. Powers said to keep in mind that when we talk about tackling projects, while we gravitate toward the funding side because that is the practical side of doing a project, another major part of undertaking a project is how the City allocates its staff time. You don't allocate staffing resources to a project to which you don't have any funding when you have funding for another project. If the Planning Commission would like to make a recommendation that the list should be reprioritized, that is something that the Planning Commission can do. The Planning Commission could send a different order of projects or recommend re-prioritizing the list next year.

Ms. Johnson said she would feel more comfortable seeing an updated list from the Council so that they could clearly know what their priorities are rather than just saying that here are fifteen things that may or may not happen. Ms. Johnson said she had concerns about the special events center and the sustainability of it if it was built. She felt uncomfortable with going along with the list thinking that the special event center would not happen when the Council might be thinking that it should happen.

Mr. Powers used the Municipal Pier project as an example. He reminded the Commission of when the Planning Commission was considering whether the Shoreline Conditional Use permit should be approved. The Planning Commission recommended approval but not without some concerns about the design, the need for the facility and the uses that might occur. But the Commission focused on the permit decision because staff advised them that the Council, in addition to taking up the issue of the permit, would also have to deal with the issue of whether or not to move forward with committing to using the grant dollars. The Municipal Pier project is on the list now and has been on this list since long before the CIP was in this format. The Council made the decision that not to proceed with the Pier project this year and returned federal dollars but chose to keep it on the list because they believed it was a worthwhile project but not a project that should be undertaken at this point in time. The point is that while these projects are on this list there is a separate decision making process which has to happen with every one of those projects if they are actually going from being a placeholder in this document to being a capital project that the City would actually build. Mr. Kamak added that since these projects come from other City plans, the special events center comes from the Windjammer Plan so to make a change to that it would be best to look at the Windjammer Plan again to see how practical the plan is. Doing it in the CIP may not give any clarity as to what the Windjammer Plan should then do.

Mr. Fakkema commented that if a project is taken off the list it is saying that we will not pursue it in any fashion. The same goes for the performing arts center (special events center) if we keep it on the back burner realizing that it may be important later, if you take it off now, were saying

that is never going to be important. Mr. Kamak added that that is the question that staff asked Council regarding the Pier project, is whether they wanted to keep it on the list.

Ms. Jensen asked who added the old high school stadium to the list. Mr. Powers explained that it was a staff recommendation because we saw that as an emerging opportunity so we thought that this was an appropriate time to capitalize on that.

Mr. Jensen asked how long it had been since the public had in put on the list. Mr. Powers said that the public has the opportunity every year when we go through this process. There is opportunity to comment on the CIP. Mr. Powers added that prior to 2006 when this document was put into this format the City's Capital Facilities Plan did everything we needed to do from a Growth Management perspective. It captured the water, sewer, storm drain, streets and parks projects for the six year period time for a twenty year projection revenue sources and matched all that up. We satisfied our Growth Management Act (GMA) requirements. In 2006 the City went to this new format. We tried to capture all of the other non-GMA capital projects that the community had talked about along with the GMA requirements. These weren't new projects; many of them have been talked about for a very long time. We tried to put the things that we have to do and the things that we might want to do into the same document so that when Planning Commission and Council are talking about what our needs are and what our resources are to address those needs, they had a single document that they could look at as opposed several documents with multiple projects. The list is about six years old and you could make a good case that it is probably time to go through another major look at the list but the last time, the process took about a year.

Mr. Powers pointed out that the CIP is on an annual cycle for review as required by the GMA so we are tracking to a date that gets the document to the Council in December but if the Planning Commission would like another meeting in November that option is available. Mr. Powers also noted that the Planning Commission meeting minutes are provided to the City Council so the Council will have the benefit of seeing the Planning Commission's questions and concerns about this project list.

Mr. Fakkema called for the question.

VOTE ON THE MOTION

MOTION PASSED ON A VOTE OF 5 IN FAVOR AND 1 OPPOSED.

Ms. Jensen explained that she was opposed to the motion because she wanted to work on reprioritizing the list over the next year. Mr. Powers said that Ms. Jensen's preference would be reflected in the minutes and that staff will also put it in the Council's agenda bill that the Planning Commission recommended approval of the CIP but thought that the list should be reexamined.

MOTION: MS. JENSEN MOVED TO HAVE THE PLANNING COMMISSION WORK OVER THE NEXT YEAR TO REPRIORITIZE AND REVISE THE NON-ENTERPRISE FUND LIST IF NEEDED.

MOTION DIED FOR LACK OF A SECOND.

Ms. Johnson asked if this motion could be brought up again at the next Planning Commission meeting.

Mr. Powers and Mr. Neil said that the Planning Commission could make a motion at any time.

Mr. Wasinger asked what the expense would be in terms of staff time. Mr. Kamak said that it is a good idea to bring this up at the next meeting because at the next meeting the Planning Commission will be discussing what Comprehensive Plan amendments we should take on next year, so these are the types of things that can be discussed to formulate recommendations on the 2012 Comprehensive Plan amendments.

Mr. Powers went back to Mr. Wasinger's question and said that it depends on the context of what the Planning Commission envisions. Is the Planning Commission proposing to look at the list inside of the CIP and thinking about whether the projects should stay on the list or are you proposing they be reordered through the comprehensive planning process which is what Mr. Kamak described? If the thought is to go down a couple of levels and revisit everything in the Windjammer Plan and start that effort from the ground up, that is outside our scope and not something that we can tackle. But in the comprehensive planning process you can have a conversation with the community about what their thoughts are on the list and how the list might be revised.

Ms. Jensen said she would like to ask questions like what made us think we needed a new senior center, in other words, how some of the items got where they are on the list.

Mr. Fakkema commented that the question was raised about getting public input, no one is here tonight, isn't this the place that people would come to give their input?

Ms. Jensen said that she wouldn't know what reviewing the Capital Improvement Plan means as a member of the public. If it said that we were looking at future projects in the City the public would understand that.

Mr. Powers said that if we embark on a process to dig into this in the course of the next year then the notices that we put in the news paper, web site etc. would be geared around that. The notices for this process were geared around the normal review process that we do which is a fine tuning of the existing document. If you're going to go back in and question what is in the plan then we would write different notices to let the public know what we are talking about.

Ms. Johnson asked if it would be wise to recommend that the list be reviewed on a regular basis or at regular intervals i.e. with each new administration or every 10 years. Mr. Kamak said that would be wise and staff has asked Council if the list should be reviewed but the Council has not indicated that there was a need to review the list yet. Mr. Powers added that the GMA side is governed by state law which is six years. You would not want to do it with every new Council because as we have seen, projects take time. Even if you spend all of your time on one project you're probably 24 months into a project before you can get to construction. Changing a list of projects every 2 or 3 years isn't going to yield you any time to actually work on projects.

Hearing no further discussion the public hearing was closed.

ADJOURN: 9:11 p.m.



October 21, 2011

Planning Commission
City of Oak Harbor, WA

VIA ELECTRONIC MAIL

Re: Sign Code Update

Dear Planning Commission Members:

I write on behalf of the American Civil Liberties Union of Washington. We are a statewide, non-partisan, non-profit organization with over 25,000 members, dedicated to the preservation and defense of constitutional and civil liberties. I understand that the Planning Commission will be voting on a recommendation to revise the City of Oak Harbor municipal code's provisions on political signage at your meeting scheduled for October 25, and have reviewed Ethan Spoo's memo suggesting changes to the code. The ACLU of Washington is pleased to note that the memo generally recommends changes that recognize the importance of allowing constitutionally protected political speech to thrive, and we recommend that the Commission adopt those recommendations and forward them to the City Council.

Our only remaining issue is with the retention of a post-election time limit of seven days on political signage, as discussed under the heading of "Time" on page 3 of the memo. We note that OHMC 19.36.080(8)(a) currently allows post-election political signs to remain on private property only for a period of 7 days following a primary election, except for those promoting a successful candidate, which are allowed until 7 days following the subsequent general election. We urge the Commission to recommend removal of the time restrictions on political signs on private property entirely, and to rely simply on the dimension and location requirements, which are a sufficient means of regulating such signage. The time restrictions serve no useful purpose when viewed in the context of the additional dimension and location requirements. If the Commission chooses to retain the time restriction, it should at least recommend removal of the existing distinction between successful and unsuccessful candidates, to allow those who support even losing candidates to make their political viewpoints known through the time of the general election.

This analysis is based only upon our review of Ethan Spoo's concept memo, and we may have further comment once we review actual draft language. Such language has

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JESSE WING
BOARD PRESIDENT

KATHLEEN TAYLOR
EXECUTIVE DIRECTOR

not yet been made available to us. We appreciate the Commission's consideration of these comments, and look forward to working with all of you further on this issue.

Sincerely,

Shankar Narayan
Legislative Director

Cc: Steve Powers, Development Services Director
Ethan Spoo, Senior Planner

[Request this document](#) | Document Date: 6/05

Jurisdiction: Tacoma

☐ [MRSC Library Catalog Documents](#)

- [Library Catalog Results](#)

☐ [Featured Inquiries \(2 Results\)](#)

1. **Can a city or county adopt post-election durational restrictions for political campaign signs?**

Yes. In [Collier v. Tacoma](#), 121 Wn.2d 737 (1993), the Washington Supreme Court addressed both pre- and post-election restrictions on political campaign signs. While holding that "Tacoma's durational limitation on the preelection posting of political campaign signs violates the free speech provisions of both the Washington and the United States Constitutions," the court addressed post-election requirements as follows:

[O]ur holding does not compel a change to postevent removal requirements as long as such requirements are reasonable and apply to all temporary events, such as political campaigns, home sales and residential renting. While preelection political speech interests may outweigh a municipality's regulatory interests in a given case, those same interests are not present postevent and may be outweighed by a municipality's demonstrated interests in aesthetics or traffic safety. See [Baldwin v. Redwood City](#), *supra* (10-day postelection removal requirement upheld).

So, assuming that reasonable post-election requirements apply to all temporary events, they would be valid under [Collier v. Tacoma](#).

2. **May the county prohibit how long in advance of an election that political signs may be posted?**

No. In the case of [Collier v. Tacoma](#), 121 Wn.2d 737 (1993), the state supreme court held that the provision in the Tacoma Municipal Code that limited political signs to 60 days prior to an election was unconstitutional. So it is not legally possible to limit the time in advance of an election that political signs can be posted in the places where political signs are allowed.

The court allowed a 10-day post-election removal requirement. The rights of political expression do not weigh as heavily on post-election restrictions and the local government's interest in aesthetics and traffic safety outweigh the individual rights. So a county likely could enact a valid regulation requiring removal of political signs ten days after the election.

☐ [Subject Pages \(1 Results\)](#)

1. [Sign Control Provisions](#)

Provides information on Washington city and county sign control provisions

Sign Code Update

Public Meeting

Memo

To: Members of the Planning Commission
Cc: Steve Powers, Development Services Director
From: Ethan Spoo, Senior Planner
Date: 11/7/11
Re: Sign Code Update – Answers to Planning Commission Questions from October 25, 2011

Purpose

In October, staff briefed Planning Commission on concepts and principles for updating the City's temporary sign code. Planning Commission had a number of questions regarding aspects of regulating temporary signs. Staff had initially anticipated introducing a draft of the temporary sign code at the November Planning Commission meeting. However, given the number and type of questions posed by Planning Commission at the October meeting, staff want to ensure that Planning Commission questions have been addressed prior to presenting the draft code.

Answers to Planning Commission Questions

The following discussion provides answers to questions asked by Planning Commission at the October 25, 2011 meeting.

- **Question:** Does the *Collier vs. City of Tacoma* case mean that someone can put up a political sign for an unlimited amount of time prior to the event or election? What is the State's definition of "pre-election" in regards to time limits?
- **Answer:** According to the Municipal Research Services Center (MRSC) of Washington, pre-election time limits are unconstitutional. "It is not legally possible to limit the time in advance of an election that political signs can be posted in the places where political signs are allowed."¹ The State does not define pre-election.
- **Question:** Can someone put up a political sign on the "Welcome to Oak Harbor" entrance sign or on the trees along SR20 because these are within the public right-of-way? If so, couldn't these signs stay up for an indefinite period of time?
- **Answer:** The *Collier* case concluded that political signs cannot be prohibited within the public right-of-way. However, the Washington State Department of Transportation (WSDOT) has issued an opinion prohibiting political signs within state highway rights-of-way.² City staff does not know whether the WSDOT prohibition is correct or how it aligns with the conclusions of *Collier*.

¹ MRSC Index: Licensing and Regulating: LR 82.40000 - Temporary signs, freestanding signs, political signs, sandwich board signs, portable signs, real estate signs.

² See letter to political candidates from WSDOT, which may be accessed at <http://www.wsdot.wa.gov/NR/rdonlyres/C18FB306-92AA-42BD-8E4B-27434FDAE518/0/candidatesigninfo.pdf>

- **Question:** What is the definition of a political sign? Does the City have any ability to limit the content of political signs?
- **Answer:** OHMC 19.36.020(31) defines political signs as “signs advertising a candidate or candidates for public elective office, or a political party, or signs urging a particular vote on a public issue decided by ballot.” According to longstanding case law, with the exception of obscenity, the City cannot regulate the content of signs.
- **Question:** Can the City place limits on the number of signs on public property?
- **Answer:** There is no case law in Washington that staff is aware of which addresses this topic. However, the MRSC is skeptical as to the constitutionality of such a restriction.³ Limits may seem reasonable at first, but depending upon the type of public property we are talking about (parks, landscape strips, sidewalks, etc.), a blanket limit on the number of signs for all types of public property may be too restrictive and therefore an infringement on free speech.
- **Question:** What about the “dancing pizza” signs? How are those signs regulated?
- **Answer:** The City has not addressed these sign types before. It is staff’s opinion that these types of signs fall outside of the scope of this particular amendment.
- **Question:** What about temporary commercial signs on public property? Do those have to be treated the same as political signs? For instance, can there be time limits on commercial speech on public property that would not apply to political speech?
- **Answer:** The code does not allow off-premise commercial signs except for very specific types of directional signs. Staff is not aware of any legal issues with this restriction at this time.
- **Question:** What is the definition of temporary signs according to the Oak Harbor Municipal Code? Are there limits on the way it is designed or the length of time it is in place that make it temporary?
- **Answer:** OHMC defines temporary signs as “Different types of temporary and special signs included in this category are limited to construction signs, grand opening displays, real estate signs, open house signs, residential land subdivision signs and subdivision directional signs.” The code does not define temporary signs by the time limit, i.e. less than six months, etc. However, the code places specific time restrictions on some types of temporary signs. For instance, temporary real estate signs may be placed for a period not exceeding one year after occupancy. OHMC 19.36.080 addresses the design of a-frame signs.
- **Question:** Can we designate certain planter strips or certain parks as appropriate for political signs (and not others)?
- **Answer:** Based on the *Collier* case, planter strips and parks are traditional public forums and are therefore government cannot restrict placement of signs in these locations unless there were an overriding public interest at issue, such as safety, associated with a particular planter strip or a particular park. But, it is staff’s preliminary opinion that the City could not prohibit the placement of political signs in certain planter strips simply for preference reasons.
- **Question:** How have other communities handled these issues?
- **Answer:** Staff have attached relevant codes from Pierce County, City of Redmond, and City of Kirkland. Staff provide these codes as examples, but their legality or constitutionality has not been research.

³ “Regulation of Political Campaigns Signs in the Public Right-of-Way”, Municipal Research Service Center, <http://www.rsc.org/Publications/mrnews/articles/>



Information retrieved November 15, 2011 3:53 PM

Seattle Municipal Code

Title 23 - LAND USE CODE

Subtitle III Land Use Regulations

Division 2 Authorized Uses and Development Standards

Chapter 23.55 - Signs

SMC 23.55.012 Temporary signs permitted in all zones.

A. Real estate "for sale," "for rent" and "open house" temporary signs, temporary signs identifying the architect, engineer or contractor for work currently under construction, and temporary noncommercial messages displayed on fabric signs, flags or rigid signs shall be permitted in all zones at all times, provided they are not painted with light-reflecting paint or illuminated. The total area for these types of temporary signs in the aggregate shall not exceed eight (8) square feet per building lot in single-family zones, and twenty-four (24) square feet per building lot in all other zones, except as follows: the total area allowed for noncommercial messages may increase to a maximum of eight (8) square feet per dwelling unit for use by the occupant of that dwelling unit; and in buildings where there are eight (8) dwelling units or more, a real estate banner not exceeding thirty-six (36) square feet may be permitted for one (1) nine (9) month period starting from the date of the issuance of the certificate of occupancy.

*B. In addition to the signs described in subsection A of this section above, commercial or noncommercial messages may be displayed for a total of four (4) fourteen (14) consecutive day periods a calendar year; these additional four (4) periods are the maximum, whether the message is the same message or a different message. These messages may be displayed on banners, streamers, strings of pennants, fabric signs, festoons of lights, flags, wind-animated objects, rigid signs, balloons, searchlights, portable signs attached to vehicles, or devices of a carnival nature, and shall be allowed as temporary signs in all zones. The total area for all temporary signs per fourteen (14) day period, when combined with those signs authorized under subsection A of this section, in the aggregate shall not exceed thirty-two (32) square feet per building lot for signs made of rigid material, with no dimension greater than eight (8) feet, and one hundred (100) square feet per building lot for temporary signs not made of rigid material; provided that the total area allowed for noncommercial messages may increase to a maximum of thirty-two (32) square feet per dwelling unit, with no dimension greater than eight (8) feet, for signs made of rigid material, and one hundred (100) square feet per dwelling unit for temporary signs not made of rigid material, all for use by the occupant of that dwelling unit. No individual sign made of nonrigid material may exceed thirty-six (36) square feet.

C. All signs authorized by this section are subject to the following regulations:

1. No sign may be placed on public property or on the planting strips that abut public property, including planting strips forming a median in a public street, except as provided in subsection C3 below and except for portable signs attached to vehicles that are using the public streets.

2. All signs must be erected with the consent of the occupant of the property on which the sign is located, except as provided in subsection C3 below.

~~X~~ 3. Temporary Signs on Public Property or in Planting Strips.

a. Temporary signs with commercial or noncommercial messages may be located on public rights-of-way or in planting strips in business districts, subject to the requirements of City of Seattle Public Works Rules Chapter 4.60 or its successor Rule.

b. Temporary signs with noncommercial messages, other than in subsection C3a above, may be located in the planting strip in front of private property with the consent of the occupant of that property and may not exceed eight (8) square feet or be supported by stakes that are more than one (1) foot into the ground. Signs in the planting strip shall be no more than twenty-four (24) inches in height as measured from street or driveway grade when located within thirty (30) feet from the curblines of intersections. Signs shall be no more than thirty-six inches (36") in height as measured from street or driveway grade when located thirty feet (30') or more from the curblines of intersections.

c. In addition to commercial signs in business districts allowed in subsection C3a above, only temporary commercial "open house" signs may be placed in planting strips. One (1) "open house" temporary sign per street frontage of a lot may be located with the consent of the occupant and provided the occupant or seller is on the premises. The "open house" signs may not exceed eight (8) square feet per lot or be supported by stakes that are more than one foot (1') into the ground. The "open house" signs shall be no more than twenty-four inches (24") in height as measured from street or driveway grade when located within thirty feet (30') from the curblines of intersections, and shall be no more than thirty-six inches (36") in height as measured from street or driveway grade when located thirty feet (30') or more from the curblines of intersections.

d. No sign placed in a planting strip may be displayed on banners, streamers, strings of pennants, festoons of lights, flags, wind-activated objects or balloons.

e. The requirements of this subsection C3 shall be enforced by the Director of Seattle Department of Transportation pursuant to the enforcement provisions of that Department.

4. No sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street furniture, or otherwise create a hazard, including a tripping hazard.

5. Signs shall be designed to be stable under all weather conditions, including high winds.

6. A temporary sign shall conform to the standards for roof signs, flashing, changing image or message board signs, for moving signs, and for lighting and height regulations for the zone or special review district in which the temporary sign is located, provided that balloons may exceed height regulations.

7. The entire visible surface of the sign, exclusive of support devices, shall be included in area calculations.

(Ord. [121477](#) Section 35, 2004; Ord. [118409](#) Section 203, 1996; Ord. 117555 Section 2, 1995; Ord. 112830 Section 10(part), 1986.)

Definitions of terms used in Land Use Code.

Search for ordinances passed since the last SMC update (ordinances effective through September 28th, 2011 through Ordinance 123712.

(Note: this feature is provided as an aid to users, but is not guaranteed to provide comprehensive information about related recent ordinances.)

See also [Recent Legislation](#) and [Council Bills and Ordinances](#).

For research assistance, contact the Seattle City Clerk's Office at (206) 684-8344, or by e-mail, clerk@seattle.gov.

For interpretation or explanation of a particular SMC section, please contact the relevant City department.



City of Kirkland

100.115 Temporary/Special Signs

A. The chart below establishes regulations that apply to numerous signs of a temporary or special nature or purpose. These signs shall be permitted in addition to the signs permitted in Sign Categories A through F, and shall be subject to the requirements set forth in the following chart. Except as specifically stated in the chart, the signs in the chart are not subject to the regulations of KZC 100.30 through 100.75 and KZC 100.95.

No temporary or special signs shall be posted or placed upon public property; provided that, certain temporary signs may be posted or placed within certain portions of a public street right-of-way as identified by the chart below.

| TYPE OF SIGN | MAXIMUM NUMBER OF SIGNS | MAXIMUM SIGN AREA | PERMITTED LOCATION | PERMITTED DURATION OF DISPLAY |
|-----------------------|---|--|--|---|
| Real Estate, On-site | For each dwelling unit, use or development: 1 per broker per abutting right-of-way. | Dwelling units: 6 sq. ft. per sign face. Other uses or developments: 32 sq. ft. per sign face – not to exceed 64 sq. ft. per property for sale or rent. | Subject property. | Must remove when property is sold or rented. |
| Real Estate, Off-site | 1 per block per property for sale or rent. | 6 sq. ft. per sign face. | Private property/public right-of-way.(3) | Must remove when property is sold or rented. |
| Construction | 1 per abutting right-of-way. | 32 sq. ft. per sign face. | Subject property. | Shall not be displayed prior to issuance of a building permit. Must be removed prior to issuance of a certificate of occupancy. |
| Temporary Commercial | No maximum. | No maximum. | Subject property. Must be entirely attached to a building face or fence. | Must remove at end of use, event or condition. |
| Integral | 1 per structure. | 6 sq. ft. per sign face. | Subject property. | No limitation. |
| Private Notice and | No maximum. | 2 sq. ft. per sign face. | Subject property. | No limitation. |

Instructional

| | | | | |
|---------------------|-------------|---------------------------|---|--|
| Private Advertising | No maximum. | 16 sq. ft. per sign face. | No closer than 50 ft. from another sign advertising the same use, event or condition. | Must remove at end of use, event or condition. |
|---------------------|-------------|---------------------------|---|--|

| | | | | |
|---------------------------|-------------|--------------------------|-------------------|----------------|
| Private Traffic Direction | No maximum. | 4 sq. ft. per sign face. | Subject property. | No limitation. |
|---------------------------|-------------|--------------------------|-------------------|----------------|

| | | | | |
|-------------------------|----|--|--|-----------------------------------|
| Off-site Directional(1) | 1. | 16 sq. ft. per use, not to exceed 64 sq. ft. | Private property/public right-of-way.(3) | Determined on case-by-case basis. |
|-------------------------|----|--|--|-----------------------------------|

| | | | | |
|-------------|-------------|--------------------------|--|--|
| * Political | No maximum. | 6 sq. ft. per sign face. | Private property/public right-of-way.(3) | No later than 7 days after the final election. |
|-------------|-------------|--------------------------|--|--|

| | | | | |
|------------------------------|---|--------------------------|---|----------------|
| Projecting and Under Marquee | 1 per pedestrian or vehicular entrance. | 4 sq. ft. per sign face. | Subject property right-of-way abutting subject property. For uses subject to Sign Categories C, D, E and F only. Shall not project above roofline of structure to which sign is attached. | No limitation. |
|------------------------------|---|--------------------------|---|----------------|

| | | | | |
|---------------|------------------------------|---------------------------|-------------------|----------------|
| Fuel Price(2) | 1 per abutting right-of-way. | 20 sq. ft. per sign face. | Subject property. | No limitation. |
|---------------|------------------------------|---------------------------|-------------------|----------------|

| | | | | |
|-------------|-------------|----------------|-------------------|----------------|
| Window Sign | No maximum. | No limitation. | Subject property. | No limitation. |
|-------------|-------------|----------------|-------------------|----------------|

(1) Must be approved by the Planning Director. Shall only be approved if there is a demonstrated need for an off-site sign because of poor visibility or traffic patterns. All uses in an area wanting a permanent off-site directional sign must use one (1) sign. The applicant must show that the proposed sign can accommodate all uses in the area that may reasonably need to be listed on the sign. The decision of the Planning Director in approving or denying an off-site directional sign may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110.

(2) Fuel price signs are also subject to KZC 100.95.

(3) Signs which are permitted to be placed within a public street right-of-way shall be located between the curb and the abutting private property, or where no curb exists, between the edge of the paved travel lane or paved shoulder and the abutting private property, but in no case on a sidewalk or driveway.

B. All temporary or special signs which are in violation of any provision of this section, shall be brought into conformance upon ten day's written notice of violation to the responsible party by the Planning Official, pursuant to the notice provisions of KZC 170.35. If the responsible

party fails to remove or correct the sign violation within seven (7) calendar days after being served with notice of the violation, the Planning Official shall have the authority to remove the violative sign(s), and to assess the charges for such removal against the responsible party. For the purposes of this section, the "responsible party" shall be the owner or operator of the subject property upon which the sign violation occurs; provided that, in the case of off-site directional signs, the "responsible party" shall be the applicant(s) for the off-site directional sign; and provided further that, in the case of political signs, the responsible party shall be the political candidate and/or the manager of the political campaign promoted by the violative sign(s).

C. Notwithstanding the other provisions of this section, the Planning Official may remove without notice any temporary or special sign which is in violation of any provision of this chapter and is located in the public right-of-way or on public property, and may assess the costs of removal of such signs against the responsible party.

City of Eumaxlaw
19.10.040 Applicability and exemptions.

Unless exempted below, signs shall not be issued a building permit nor shall they be installed until the design review board has issued a finding of conformance (with or without conditions) with the regulations of this chapter. The following signs are exempt from the requirements of this chapter, but still may require a building permit:

A. Signs erected or posted and maintained for public safety and welfare by a governmental agency, or pursuant to any governmental function, law, bylaw, or other regulation;

B. A bulletin board on the building wall of a church, museum, library, school, chamber of commerce, or similar public or semi-public use; provided, that each individual public or semi-public entity within the development shall be limited to one board measuring no more than nine square feet in area and extending no more than eight feet above ground level;

C. Directional or informational signs indicating location and/or ingress and egress. The signs shall be placed at driveway locations, contain no advertising material, be permanently fixed to the ground or structure, not extend higher than four feet above ground level, and have a display area that does not exceed three square feet;

D. Murals or other pieces of wall-mounted art which shall have been approved through the public art review process;

E. Nonilluminated window signs which do not exceed 33 percent of the window or 10 percent of the building facade containing the window, whichever is less;

F. Residential nameplates not exceeding one and one-half square feet in area;

G. Signs under 10 square feet in size within the commercial, office, and industrial zones, for which the administrator deems design review unnecessary; provided there is a maximum of one such sign per development;

H. Signs related to trespassing, hunting, and parking, not exceeding two square feet in area;

I. Signs displaying address numbers only, not exceeding two square feet in area;

J. Agricultural products signs advertising products grown on the subject property. The signs shall be allowed at each street frontage, and shall be temporary, erected for a period not exceeding 10 days prior to the availability of the products for sale, and removed when the products are no longer available for purchase. The maximum sign area shall not exceed 10 square feet for each face of a single- or two-faced sign;

K. Changeable copy per this chapter on a lawfully erected manual or electronic readerboard sign designed for the use of changeable copy;

L. Flags of the country, state, city or governmental body that are mounted on approved flagpoles and that do not exceed 40 square feet in the residential zones and 100 square feet in all other zones; larger flags must be approved by the design review board;

M. Garage sale signs not exceeding six square feet per sign face and not advertising for a period longer than 48 hours;

N. City land use public notification signs;

O. Real estate signs that do not exceed maximums of eight square feet per sign face and five feet total height for residential zones, 16 square feet per sign face and seven feet total height for other zones. A single fixed sign shall be located on the property to be sold, rented or leased, and shall be removed within seven days from the completion of the sale, lease or rental transaction;

P. Real estate open house "A-board" signs not exceeding four square feet per sign face. Signs shall only be allowed during the day of the open house and shall be taken inside at night;

* Q. Political signs that do not exceed a maximum of five square feet per side in residential zones and 10 square feet in other zones. Signs shall be placed no more than 60 days prior to election and removed within seven days following the election and shall contain no commercial copy;

R. Barber poles at barber shops;

S. Any sign not visible from the street or other public area;

T. Menu signs of an appropriate scale per definition (Chapter 15.04 EMC);

U. Noncommercial holiday signing. (Ord. 2435 § 1 (Exh. A), 2009; Ord. 2204 § 2, 2004).

2012
Comprehensive Plan Amendment
Docket
Public Meeting

**City of Oak Harbor
Planning Commission Report**

Date: November 15, 2011
Subject: Comprehensive Plan
Amendments – Discussion of
items for 2012 Docket

FROM: Cac Kamak, AICP
Senior Planner

PURPOSE

The purpose of this memo is to provide a framework for discussing discretionary amendments that the Planning Commission would like to see on the Preliminary¹ Comprehensive Plan Amendment docket.

BACKGROUND

Process

The process to amend the Comprehensive Plan is outlined in Oak Harbor Municipal Code (OHMC) Chapter 18.12, a copy of which is attached to this memo. In accordance to OHMC 18.12.040, the preliminary docket is compiled each year with input from the public and the Planning Commission. This is done prior to a December 1st deadline and therefore this November Planning Commission meeting is a good time to discuss potential ideas and items for the preliminary docket.

The intent of compiling the preliminary docket prior to December 1st is to provide public notice of the preliminary docket. This is advertised in the paper, the City’s website and the Comprehensive Plan Amendment blog. After public notice, the Planning Commission then reviews the preliminary docket at its regular meeting in December and January and forwards it with a recommendation to the City Council before January 31st. The City Council then reviews it in February and March and approves a final docket for the year before March 31st.

Docket items

The Oak Harbor Municipal Code provides some direction on amendments that can be considered for a docket. The three types of amendments that can be placed on a docket are Sponsored, Mandated and Discretionary. These amendments are defined in OHMC 18.50.050 (3). Staff will discuss the three types of amendments below with respect to the coming year and also indicate where the Planning Commission has the opportunity to consider docket items to be placed on the preliminary docket.

Sponsored Amendments

These are amendments that are proposed through the application process. Sponsored amendments can either be *private* or *public*. An example of a *private* amendment is a request for changes to land use designations that result in a change to the Future Land Use Map in the Comprehensive Plan. These are the most commonly received applications. The City has not received any applications to date but the deadline for submitting a request is December 1, 2011. *Public*

¹ The docket is considered “preliminary” till the City Council approves it. After approval, it is referred to as “final” or “annual”.

sponsored amendments are requests for changes to policies with the Comprehensive Plan. Since changes to policies have potential for a larger community-wide impact and may affect other referenced plans, the procedures to consider these changes are different than the private sponsored amendments. The procedures are outlined in OHMC 18.15.060(2). The City has not received any public sponsored amendments to date.

Mandatory Amendments

These are amendments mandated by the State through the Growth Management Act or other laws. The updates to the Capital Improvement Plan done every year fall under this category. This year the Shoreline Management Program will be on the docket under this category. The requirements of RCW 36.70A.130 (3) related to review of urban growth areas and any revision to accommodate urban growth projected to occur for the succeeding twenty years will also be under this category. Currently this requirement is titled as “UGA Capacity Analysis” and is currently on the City’s docket. Mandatory Amendments are automatically given a Priority A in accordance to OHMC 18.15.050 (4).

Discretionary Amendments

As described in OHMC 18.15.050(3)(c), these amendments are added to the annual docket to proactively add, amend, revise, delete or further goals and policies in the Comprehensive Plan. Discretionary items can be added to the docket by boards, commissions, city council and by the director of development services. This is the category under which the Planning Commission can add items for consideration. The Planning Commission discussed a couple issues at the October meeting that can potentially be added to the docket under this category. One was the list of non-enterprise project in the Capital Improvements Plan, its priority and relevance for current times. The idea of providing opportunities for large commercial developments was also brought up at the last meeting. Ideas such as these or other policy changes fall under this category. Please note that OHMC 18.15.050(3)(c) also requires that discretionary items from boards and commissions shall be added to the docket only after such items have received a majority vote by said board, commission or council.

RECOMMENDATIONS

1. Discuss potential discretionary items for the 2012 Preliminary Comprehensive Plan Docket.
2. Provide public input opportunities on potential discretionary items under consideration
3. Vote on each discretionary item to add to the preliminary docket for City Council consideration.

Attachments:

Attachment 1 - OHMC Chapter 18.15 Comprehensive Plan Amendment Process

Chapter 18.15 COMPREHENSIVE PLAN AMENDMENT PROCESS

Sections:

- 18.15.010 Comprehensive plan amendment process and public participation program.
- 18.15.020 Applicability.
- 18.15.030 Responsibility.
- 18.15.040 Amendment process and schedule.
- 18.15.050 Docket.
- 18.15.060 Sponsored amendments.
- 18.15.070 Preliminary docket review criteria.
- 18.15.080 Annual amendment decision criteria.
- 18.15.090 Public participation – Notice provisions.
- 18.15.100 Public participation program.
- 18.15.110 Technical advisory group.
- 18.15.120 Appeals.

18.15.010 Comprehensive plan amendment process and public participation program.

This chapter establishes the authority, process, format, and criteria by which the comprehensive plan may be amended in accordance with Chapter 36.70A RCW. This chapter also establishes the city's public participation program as required by RCW 36.70A.140. (Ord. 1565 § 2, 2009).

18.15.020 Applicability.

(1) This chapter shall apply to updates, amendments or revisions to the comprehensive plan that are considered by the city council no more frequently than once a year. At the discretion of the mayor, amendments may be considered more frequently than once a year for the following circumstances:

- (a) The initial adoption of a subarea plan that does not modify the general vision, goals and policies of the comprehensive plan;
- (b) The adoption or amendment of a shoreline master program under the procedures set forth in Chapter 90.58 RCW;
- (c) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of the city budget.

(2) Although sometimes referred to as the annual docket, nothing in this chapter shall be deemed as requiring that amendments be undertaken every year. (Ord. 1565 § 3, 2009).

18.15.030 Responsibility.

- (1) The director of development services shall have the responsibility to:
 - (a) Administer this chapter.
 - (b) Establish application and administrative procedures that may also include fee collection, refunds, etc.

(c) Review the applications and make a determination of completeness for inclusion in the preliminary docket for planning commission review.

(d) Place amendments on the preliminary docket for planning commission and city council consideration.

(e) Make a recommendation to the planning commission and the city council on the annual docket and work program.

(2) The planning commission shall have the responsibility to:

(a) Review proposed amendments to the comprehensive plan that are included in the annual preliminary docket.

(b) Hold a public hearing, deliberate, and make recommendations to the city council on the said annual preliminary docket.

(c) Place items, as determined by majority vote, on the preliminary docket for city council consideration.

(d) Review and study proposed amendments to the comprehensive plan that are included in the city council-approved annual docket for each year and hold a public hearing, deliberate, and make recommendations to the city council on said proposals.

(3) The city council shall have the responsibility to:

(a) Review each proposal on the preliminary docket to amend the comprehensive plan and make a final decision that results in establishing the planning commission's annual docket work program for each year.

(b) Place items, as determined by majority vote, on the annual docket.

(c) Hold a public hearing and make a final decision on the amendments pursuant to this section after the planning commission has provided a recommendation to the city council. (Ord. 1565 § 4, 2009).

18.15.040 Amendment process and schedule.

The comprehensive plan shall be amended pursuant to this chapter, no more frequently than once a year as part of the amendment cycle established in this chapter, except as provided in OHMC 18.15.020.

(1) The public shall be made aware of the deadline to submit proposed amendments to the comprehensive plan by means of two publications in the local newspaper of general circulation in the city, with the first notice published at least 30 days prior to the deadline.

(2) The deadline for submitting an application for amendments pursuant to this chapter is 5:00 p.m., December 1st of each year, or the next business day if December 1st falls on a Saturday or Sunday.

(3) Only applications that fulfill the requirements of OHMC 18.15.060 by the deadline in subsection (2) of this section shall be placed on the preliminary docket for consideration in the next annual amendment process.

(4) The planning commission may recommend amendments be added to the preliminary docket, but such recommendation shall be made before December 1st of each year so that they may be published along with other proposed amendments. Only such amendments that have received a majority vote by the planning commission shall be included in the preliminary docket for consideration.

(5) The director of development services shall review all complete applications submitted by the deadline set forth in subsection (2) of this section based upon the

threshold criteria set forth in OHMC 18.15.070(1) and place them on the preliminary docket along with the discretionary and mandated items in accordance with OHMC 18.15.050.

(6) The director of development services shall advertise the preliminary docket in the local newspaper of general circulation prior to its consideration for recommendation by the planning commission.

(7) The planning commission shall hold a public hearing on the preliminary docket and review said docket based on the criteria set forth in OHMC 18.15.070(2) and make a recommendation to the city council before January 31st of each year.

(8) The city council shall hold a public hearing and review the preliminary docket and, after such review and deliberation, establish an annual docket before March 31st of each year.

(9) The annual docket shall be advertised in the local newspaper of general circulation.

(10) Proposals on the annual docket shall be open for public input throughout the amendment process. However, formal and informal meetings such as but not limited to neighborhood meetings, town hall meetings, open houses, etc., will generally be scheduled between August 1st of each year and September 30th of each year to provide consistency and predictability. Public input on the amendments shall be in accordance with OHMC 18.15.090.

(11) A draft of the proposed amendments on the annual docket shall be transmitted to the Washington State Department of Commerce in accordance with the requirements of RCW 36.70A.106 not later than August 31st of each year.

(12) The planning commission shall hold a public hearing on the proposed amendments in the annual docket based on the criteria set forth in OHMC 18.15.080 and make a recommendation on each proposal to the city council before October 31st of each year.

(13) The city council shall hold a public hearing on the proposed amendments in the annual docket and take action on such amendments before December 31st of each year. (Ord. 1565 § 5, 2009).

18.15.050 Docket.

(1) Responsibility. The director of development services shall have responsibility to manage the preliminary docket as set forth in this section and assure that the process and schedule set forth in OHMC 18.40.040 are followed.

(2) Format.

(a) The docket shall not span a term of more than one year.

(b) The items on the preliminary docket shall be categorized by the type of amendments as set forth in subsection (3) of this section.

(c) Each agenda item on the preliminary docket shall be assigned a predetermined priority based on the criteria established in subsection (4) of this section.

(3) Types of Amendments.

(a) Sponsored Amendments. These are amendments that are proposed through the application process submitted prior to December 1st of each year for consideration in the annual docket. Sponsored amendments are limited to those amendments as set forth in OHMC 18.15.060.

(b) **Mandated Amendments.** These amendments are proposed for the annual docket in response to existing and scheduled mandates from the state and the countywide planning policies. The director of development services shall be responsible for placing proposals to meet such mandates on the preliminary docket for the year in which the mandate requires action.

(c) **Discretionary Amendments.** These amendments are added to the annual docket to proactively add, amend, revise, delete or further goals and policies in the comprehensive plan. Discretionary items can be added to the docket by boards, commissions or the council as established by the OHMC and by the director of development services. Discretionary items from boards and commissions shall be added to the docket only after such items have received a majority vote by said board, commission or council.

(4) **Prioritization.** Each item on the preliminary docket shall be assigned a pre-determined priority by the director based on the following criteria:

(a) **Priority A – Mandated.** Amendments and updates that are in response to an existing or scheduled mandate from the state or countywide planning policies shall automatically be considered during the appropriate amendment cycle.

(b) **Priority B – Sponsored.**

(i) Private amendments that are sponsored by an individual property owner or a group, that impact specific properties.

(ii) Public amendments that meet the requirements set forth in OHMC 18.15.060(2).

(c) **Priority C – Discretionary.** Discretionary amendments that are generated by boards, commissions and the council to further the goals and policies of the comprehensive plan.

(5) **Approval.** The city council shall establish by resolution the annual docket. The annual docket shall specifically apply only to the amendments listed for the current year. (Ord. 1565 § 6, 2009).

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 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.

(2) Public Amendments. These are applications initiated by the public requesting changes, additions, or updates to elements, maps, data, goals and policies that have an areawide or citywide significance. Since these requests can have an impact to the community at large, the application requirements vary from the private amendments.

(a) Application Requirements.

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

(ii) Identification, address and contact information of the lead person or group initiating the proposed amendment.

(iii) Identify the goals and policies within the comprehensive plan that are proposed to be amended.

(iv) Proposed new or replacement language.

(v) Identify goals and policies that support the proposed amendment.

(vi) Supporting studies or findings that justify the proposed amendments.

(vii) A petition supporting the proposed amendment that includes the signatures and names and addresses of one of the following:

(A) No less than 250 residents or property owners of the city and its urban growth area; or

(B) Sixty percent of the property owners impacted by the proposed amendments.

(viii) An application processing fee is waived for public amendments. (Ord. 1565 § 7, 2009).

18.15.070 Preliminary docket review criteria.

(1) Applications. The director of development services shall review all complete applications submitted by the deadline set forth in OHMC 18.15.040 and make a decision whether each application should be placed on the preliminary docket based upon the following criteria:

(a) The application is complete and all relevant information in accordance with the requirements of OHMC 18.15.060(1)(a) or (2)(a) has been provided.

(b) The application was submitted by the deadline established in OHMC 18.15.040.

(c) The correct application processing fee has been paid in full by the deadline established in OHMC 18.15.040.

(2) The Preliminary Docket. The planning commission will review the proposed amendments on the preliminary docket and make a recommendation to the city council. Recommendations on whether agenda items shall be included in the annual docket should be based on one or more of the following criteria:

(a) The proposed amendments are consistent with the Growth Management Act and the countywide planning policies.

(b) The proposal does not appear to contradict other elements, goals and policies within the comprehensive plan.

(c) The proposal will implement or further existing goals and policies in the comprehensive plan.

(d) The proposal would correct an inconsistency within or make a clarification to a provision of the comprehensive plan.

(e) The proposed amendments have been clearly defined to determine a fairly accurate scope of work.

(f) The proposed amendments respond to an expressed desire by the community.

(g) The public interest would be best served by considering the proposal in the current year. (Ord. 1565 § 8, 2009).

18.15.080 Annual amendment decision criteria.

The planning commission shall review and the city council shall decide on all proposed amendments based on the following decision criteria, where applicable:

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

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

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

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

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

(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.

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

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

(9) Other specific criteria that may have been identified at the beginning of the process. (Ord. 1565 § 9, 2009).

18.15.090 Public participation – Notice provisions.

(1) The public participation requirements of this chapter shall include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations of proposed amendments to comprehensive plans and development regulation. Examples of reasonable notice provisions include:

(a) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located or that will be affected by the proposal;

(b) Posting the property for site-specific proposals;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and

(e) Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

(2) Changes to Proposed Amendments.

(a) Except as otherwise provided in subsection (2)(b) of this section, if the legislative body for a county or city chooses to consider a change to an amendment to a comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the city's procedures, an opportunity for review and comment on the proposed change shall be provided before the council votes on the proposed change.

(b) An additional opportunity for public review and comment is not required under subsection (2)(a) of this section if:

(i) An environmental impact statement has been prepared under Chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;

(ii) The proposed change is within the scope of the alternatives available for public comment;

(iii) The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;

(iv) The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or

(v) The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390. (Ord. 1565 § 10, 2009).

18.15.100 Public participation program.

Early, continuing and widespread public participation shall be provided during the comprehensive plan amendment process. The public notices for comprehensive plan amendments shall be in accordance with OHMC 18.20.380(5) pertaining to the Type V review process and with OHMC 18.20.386, where applicable. In accordance with RCW 36.70A.140, the following public participation program shall be incorporated into the amendment process:

(1) Broad Dissemination of Proposals and Alternatives.

(a) The call for proposals to amend the comprehensive plan shall be advertised in the local newspaper 30 days before the deadline for filing applications in accordance with the schedule in OHMC 18.15.040.

(b) The preliminary docket shall be advertised in the local newspaper prior to its review by the planning commission.

(c) The annual docket shall be advertised in the local newspaper after approval by city council.

(2) Opportunity for Written Comment. Written comments regarding items on the proposed docket or the annual docket can be submitted at any time during the review process up to the final city council hearing.

(3) Public Meetings After Effective Notice. All public hearings regarding comprehensive plan amendments shall follow the public notice provisions provided in OHMC 18.20.380 and 18.20.386, where applicable.

(4) Provisions for Open Discussions, Communication Programs and Information Services. The director of development services shall determine the appropriate public input forum to discuss items on the annual docket. Forums may include but not be limited to the following:

(a) **Public Meeting and Workshops.** Informal at-large public gatherings to solicit ideas, present proposals and encourage constructive feedback.

(b) **Neighborhood Discussions.** When a proposed amendment has a clear geographical interest.

(c) **Open Houses.** Advertised event to display information related to the amendments to the public including informal discussions with staff.

(d) **Display Kiosks.** Information display at general public events and venues.

(e) **Websites and Blogs.** An internet-based information distribution, discussion and input mechanism.

(5) Consideration of and response to comments may vary in form and may include letters, staff reports, responses on the web and web-based media. Written comments received after the final staff report on the subject amendment is prepared may not be responded to in writing. (Ord. 1565 § 11, 2009).

18.15.110 Technical advisory group.

(1) The mayor has the authority to appoint members to a technical advisory group if the city council approves the need for such a group and approves it as part of the annual docket approval process. The need for a technical advisory group shall be based on whether a specific amendment or amendments require:

(a) Technical expertise; or

(b) Scientific expertise; or

(c) Experience in a specific or unique field; or

(d) Input from two or more impacted groups; or

(e) Input from two or more public/government entities; or

(f) Any other reason not mentioned above as determined by the mayor.

(2) The term for members on the technical advisory group is limited to the duration of the specific amendment for which the group was formed. (Ord. 1565 § 12, 2009).

18.15.120 Appeals.

Appeal of a city council decision on a comprehensive plan amendment is governed by state law. (Ord. 1565 § 13, 2009).