

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

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**ITEM NO:** A-4  
**DATE:** February 25, 2010  
**SUBJECT:** Public/Institutional Zone, Recommendation from Planning Board  
**CONTACT PERSON:** Robert Martin, Community Development Director



**ISSUE:**

Receive recommendation from Planning Board and conduct First Reading of Ordinance 1072-10, an Ordinance Amending Title 16, Unified Development Code, by creating the text of the Public/Institutional Overlay Zone, and Amending the Zoning and Land Use Map by placing the Public/Institutional Overlay Zone on certain properties described in the text of the Zone.

**RECOMMENDATION:**

Review the following:

1. Review recommendation of the Planning Board, and
2. Conduct First Reading of Ordinance 1072-10, (**Attachment A with 3-Exhibits**), a proposed Amendment to SMC Title 16, adding Chapter 16.12, Public/Institutional Overlay Zone and Amending the Zoning and Land Use Map (**Exhibit C in Attachment A**) to place the Public/Institutional Overlay Zone on land owned or managed by governments and public agencies.

**BACKGROUND:**

A Zone indicating location of land owned/managed by governmental and public agencies is a normal component of city zoning codes. This action has been undertaken to address the lack of such a zone in the Sultan Municipal Code.

At its regular meetings of January 20, February 3, February 17, March 3, May 5, and July 21, 2009, the Board developed a draft text of a P/I Overlay Zone (**Exhibit A of Attachment A**). For various reasons, including work on the Comprehensive Plan Docket that provides policy direction for the P/I Zone, final action on this proposal at the Board was delayed until January of 2010. A reduced copy of the Zoning and Land Use Map showing the locations of the P/I Zone as implemented by the text of the Zone is included as **Exhibit C of Attachment A**.

The Board held a Public Hearing on January 5, 2010. **Attachment B** provides the excerpted Minutes from these meetings for full background on previous activity leading to this recommendation.

**DISCUSSION:**

Characteristics of the Zone as recommended by the Board are:

1. **Overlay Zone:** Underlying zoning remains in place in case the P/I Zone is removed from a particular property. This saves a two-step process of removing the P/I Zone and then replacing with another Zone.
2. **Government and public district owned property:** Federal, State, County, City, public utilities, and public district properties are zoned P/I. Private non-profit and quasi-public services are not.

3. City sponsors initial placement of the Zone throughout the community and does not charge zone change fees for jurisdictions to add property into the Zone as they acquire new property.
4. Jurisdictions file application and Zone change fee for removal of the P/I Zone if a property is to be taken off their inventory and sold back into private ownership.
5. Setbacks and development standards are variable based on the requirements that apply to the various uses either from City standards or as increased by requirements from other sources (example: State standards for construction of hospitals that exceed City of Sultan standards).
6. Zone Map indicates location of parcels that meet the standards specified in the Zone as regards ownership or management of governmental and public agency properties.
7. Note that the City Watershed and the north portion of Reese Park are involved in a Comprehensive Plan Docket Action (2009 Docket Items 1 & 2). These parcels are currently mapped as "Unzoned" in the Comprehensive Plan. This is not an allowable designation for any property, whether government or privately owned. The Comprehensive Plan Docket Items 1 & 2 place these properties in the Low/Moderate Density Designation to address the "Unzoned" issue. Once designated Low/Moderate Density through the Comprehensive Plan Amendment Docket Procedure, this Ordinance follows up with Amendment of the Unified Development (Zoning) Code by adding the P/I Overlay Zone.

Sequence of Related Actions:

Adoption of the P/I Zone is directly tied to action on the Comprehensive Plan Docket, addressed under Consent Agenda Item 9 of this Agenda Packet.

The current Zoning and Land Use Map indicates that two large City-owned properties are "Unzoned". As explained in Agenda Item C-9 of this packet, "Unzoned" is not an acceptable designation in either the Comprehensive Plan or the Unified Development Code. Comprehensive Plan Docket Items 1 and 2 of the 2009 Docket correct this problem by amending the Comprehensive Plan to authorize creation of a P/I Zone and by placing an underlying Comprehensive Plan and Zoning designation of Low/Moderate Density on these properties.

Placement of the underlying Zone then clears the way for placement of the P/I Overlay Zone in the P/I Overlay Zone cannot be placed on property designated as "Unzoned".

Presuming adoption of Docket Item 1 and 2 through Second Reading of Ordinance 1068-09 on Consent Agenda Item C-9, adoption of the P/I Zone and Map Amendment will finish the process of properly showing these City-owned properties as public land with public uses.

**ALTERNATIVES:**

1. Proceed with First Reading of Ordinance as recommended by the Planning Board.
2. Schedule a Public Hearing at the Council level prior to consideration of the Ordinance.
3. Direct Staff to modify the P/I Zone text as appropriate based on review of the Planning Board Minutes and schedule for future review prior to acting on adoption Ordinance.
4. Do not act on Ordinance and stop implementation of the P/I Zone.

**RECOMMENDATION:**

Receive recommendation from Planning Board and conduct First Reading of Ordinance 1072-10, an Ordinance Amending Title 16, Unified Development Code, by creating the text of the Public/Institutional Overlay Zone, and amending the Zoning and Land Use Map by placing the Public/Institutional Overlay Zone on certain properties described in the text of the Zone.

**ATTACHMENTS:**

**Attachment A:** Ordinance 1072-10, with Exhibits:

- A. Draft of recommended P/I zone
- B. Amendment of SMC Chapter 16.08
- C. Reduced copy of Zoning and Land Use Map

**Attachment B:** Excerpts of Minutes from applicable Planning Board Meetings and Public Hearing on P/I Zone

**CITY OF SULTAN  
WASHINGTON  
ORDINANCE NO. 1072-10**

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**AN ORDINANCE OF THE CITY OF SULTAN,  
WASHINGTON, AMENDING SULTAN MUNICIPAL CODE  
TITLE 16, UNIFIED DEVELOPMENT CODE TO ADD THE  
TEXT OF THE PUBLIC AND INSTITUTIONAL P/I  
OVERLAY ZONE AND AMENDING THE ZONING AND  
LAND USE MAP TO PLACE THE P/I ZONE ON CERTAIN  
PUBLIC AND GOVERNMENT-OWNED PROPERTIES,  
AND ESTABLISHING AN EFFECTIVE DATE**

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WHEREAS, the City of Sultan has adopted a Unified Development Code (Zoning Code) in the form of Sultan Municipal Code (SMC) Title 16 and a Zoning and Land Use Map that indicates the location of the various zones established by Title 16 ; and

WHEREAS, the Unified Development Code may be amended and updated periodically according to public involvement procedures prescribed by SMC Chapter 16.134.050, Level IV Procedures; and

WHEREAS, the Planning Board conducted a Public Hearing on the P/I Zone on January 5, 2010 and work meetings on July 21, 2009; May 19, 2009; February 17, 2009; February 3, 2009; and January 20, 2009; and

WHEREAS, after consideration of extensive public input at the work meetings and the Public Hearing of January 5, 2010, the Planning Board has recommended that the Council adopt the text of the P/I Zone to be codified as SMC 16.12.070, Public and Institutional Overlay Zone and adopt amendments to the Zoning and Land Use Map to indicate the location of the P/I Zone as provided by SMC 16.134.050; and

WHEREAS, at its meeting of February 25, 2010, the City Council has reviewed the minutes of work meetings and Public Hearing conducted by the Planning Board, considered the public input offered at those meetings and Hearing, and considered the recommendation of the Planning Board; and

WHEREAS, the Council finds that zoning of public agency and government-owned properties through a Public and Institutional Overlay Zone is in the best interest of the agencies and governments that own said properties so that they can be effectively used and developed according to the various authorities and responsibilities of those agencies and governments; and

WHEREAS, the Council finds that zoning of public agency and government-owned properties through a Public and Institutional Overlay Zone, and indicating the location of such properties on the Zoning and Land Use Map is in the best interest of land owners in the vicinity of public agency and government-owned property to provide awareness and notice of the location and potential uses of such properties; and

WHEREAS, it is the intent of the City Council to proceed with adoption of the text of the Public and Institutional P/I Overlay Zone and amendment of the Zoning and Land Use Map to place the P/I Zone on certain public and government-owned properties,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The CITY OF SULTAN MUNICIPAL CODE, TITLE 16, AND THE ZONING AND LAND USE MAP AS ESTABLISHED BY SULTAN MUNICIPAL CODE 16.08.020, ARE HEREBY AMENDED AS FOLLOWS:

- A. Sultan Municipal Code Title 16, Unified Development Code is amended to include Section 16.12.070 to be known as the Public and Institutional P/I Overlay Zone as provided on **Exhibit A**.
- B. Sultan Municipal Code Chapter 16.08.010 is amended to include item G. Public and Institutional (P/I) Overlay Zone as provided on **Exhibit B**.
- C. The Land Use and Zoning Map as described in Sultan Municipal Code Chapter 16.08.020 is amended to show the location of property subject to the Public and Institutional (P/I) Overlay Zone as provided on **Exhibit C**.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED** BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

CITY OF SULTAN

\_\_\_\_\_  
Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

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Laura Koenig, City Clerk

Approved as to form:

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Margaret J. King, City Attorney

Passed by the City Council:

Date of Publication:

Effective Date:

## ORDINANCE 1072-10

### EXHIBIT A: TEXT OF CODE ADDING

#### SECTION 16.12.070 Public and Institutional Overlay Zone

##### 16.12.070 Public and Institutional Overlay Zone.

###### A. Purpose.

The purpose of the Public/Institutional Overlay Zone (P/I) is to provide and protect properties devoted to public and semi-public uses and uses providing social and physical services to the Sultan Community. The Zone is applicable to property owned or managed by governmental agencies, or sub-municipal districts. This purpose is accomplished by:

1. Providing a Zone in which uses serving public needs may be located with attention to the specific needs of such uses
2. Limiting residential and privately owned operations on P/I zoned land
3. Protecting adjacent properties from potential impacts of public uses.
4. Placement of this Zone on properties owned, managed, used, or intended to be used by public agencies such as schools, government facilities, social services, hospitals, libraries, utilities, etc.

###### B. Permitted Uses.

1. Public agency office
  - a. City Hall
  - b. School District Office
  - c. Fire District Office
  - d. Police Office and Dispatch Operations
  - e. Public Utility Office, and Dispatch Facility
2. Public Agency Support Facility
  - a. Archive Buildings
  - b. Inside storage
  - c. Parking Lots/ Parking Structures
  - d. Small-scale Communication towers and antennas
  - e. Public Information Kiosks and similar facilities for public posting of official communications
3. Public Parks, Playgrounds, Ball Fields (without large scale area lighting)
4. Nature Preserves
5. Public Access Trails and Interpretive Facilities, Wildlife Exhibit
6. Court Buildings
7. Public Stormwater management facilities
8. Public schools with fewer than 15 students on campus at any one time
9. Public Agency Animal Control Facility
10. Expansion of Existing Water and Wastewater Treatment Facilities
11. Public Agency Training Facility
12. Public Transit Facilities including Bus Stop, Transfer Station, Park & Ride Lot"
13. School Bus Base or Transfer Facility
14. Hospital
15. Public & Agency Medical Clinic
16. Library

C. Conditional Uses.

1. Large-scale communication towers and antennas for public or private use,
2. Public Parks, Playgrounds, Ball Fields when developed with large-scale area lighting,
3. Public or quasi-public schools more than 15 students including Junior College, College, or University
3. Placement of large scale area lighting in existing Public Parks, Playgrounds, Ball Fields
4. Public Agency utility yards and similar large-scale outside storage facilities
5. Private Storm water management facilities as part of a new subdivision or planned unit development proposal
6. Airport, Heliport
7. Fire Station
8. Jail
9. Stadium, Arena
10. Fairground
11. Secure Community Transitional Facilities
12. Zoo

D. Development and Design Standards.

Many of the uses in the Public/Institutional Overlay Zone are unique in the way that they use land and in the way that they affect neighboring properties. Many Public/Institutional uses are also subject to federal, state, and regional development and design standards that are beyond the influence of local zoning codes. In recognition of these realities, development and design standards for such uses will be implemented in this code through the following:

1. Prior to filing an application for a use in the P/I Zone, the applicant shall schedule a pre-application conference as provided in SMC 16.10.060 B.
  - a. The applicable administrative procedures and development standards shall be discussed.
  - b. It shall be the responsibility of the applicant agency or organization to provide information on all known applicable Federal or State standards that affect land use issues such as required land area, parking, height requirements, noise, light, and transportation.
  - c. The Director shall prepare a letter summarizing the City's understandings of the meeting within 10-days of the meeting.
2. Development standards applicable to a P/I proposal shall be applied according to the following which are listed in hierarchical order:
  - a. Federal standards that over-ride local and state standards
  - b. State standards that over-ride local standards
  - c. All applicable standards of the SMC including but not limited to the following:
    - i. State Environmental Policy Act procedures if applicable
    - ii. Subdivision regulations if land is being divided
    - iii. Shoreline and Critical Areas Codes if applicable
    - iv. Flood Management Codes if applicable
    - v. Stormwater Management Codes
    - vi. Concurrency Management Standards and applicable impact and mitigation fees.
  - d. Setbacks: Where a proposed P/I use is adjacent to a residential district, the yard setbacks provided by that residential district shall constitute the minimum setback standards for the P/I use. Setbacks shall be increased from the minimum based on the project review process including the State Environmental Policy Act submittal and environmental and design review standards.

- e. Lot Size: Land areas required for a proposed use in the P/I Zone shall be based on the proposed use and its need for:
  - i. Area necessary to accommodate the use and all ancillary land uses that are normally and customarily provided in conjunction with the principal use, or as required by federal or state standards in excess of the SMC requirements.
  - ii. Setback from adjacent property for light, noise, building height, and other performance and spill-over considerations.
  - iii. Vehicle parking and maneuvering requirements. The standards of the SMC shall be the minimum requirement. Additional parking and maneuvering areas shall be provided as required by proper engineering design of the facility and/or federal or state standards that exceed the SMC requirements.
  - iv. Provision of all required environmental performance standards including but not limited to critical areas protection standards, stormwater management, and related requirements.

E. Initial Placement of Public/Institutional Overlay Zone.

1. When the P/I Overlay Zone is first placed on the Official Zoning Map, it shall be placed by legislative action of the City Council on behalf of the City and all districts, and agencies, that engage in services covered by the P/I Zone. This includes, but is not limited to:
  - a. City-owned buildings, service facilities, treatment plants, parks and open space, and other City operated/managed facilities.
  - b. School District facilities including public schools, administration facilities, play fields, stadiums, and undeveloped land owned by the District for future development.
  - c. Fire District facilities including fire stations, administration facilities, training facilities, and undeveloped land owned by the District for future development.
  - d. City-owned property leased or managed by quasi-public service agencies.
  - e. Land owned by governments, districts, or public utilities that is not currently developed and/or employed for public service but is intended to be developed and/or employed for public purposes in the future.
  - f. Not included in the initial placement of the P/I Zone is land that is in incidental ownership of the public entity and that is intended to be sold to the private sector within one year of the date that the initial P/I Zone is implemented.
2. The map amendment shall be to the Zoning Map only. The Comprehensive Plan Map shall remain unchanged. The existing zone shall be retained as an underlying Zone. If the P/I Overlay Zone is removed from the site by future action as provided in Item G below, the Zoning Map shall be returned to the Zone underlying the P/I Overlay Zone.

F. Placement of the P/I Overlay Zone after initial legislative placement of the Zone.

1. After the effective date of implementation of the P/I Overlay Zone, a government agency, or district that acquires land or facilities intended to be owned for more than one year, shall notify the City and request a Zone Map Amendment to place the P/I Overlay Zone on the property.
2. This Zoning Map Amendment shall be undertaken by the City at no expense to the agency requesting the amendment.
3. This is a mechanism to provide notice to the community and neighboring property owners that the current zoning and use of the property for typical private uses allowed under existing zoning is proposed to change to public use as provided by the P/I Overlay Zone.

G. Removal of property from the P/I Overlay Zone.

1. When a governmental agency, or district, no longer intends to utilize its property zoned P/I and intends to place it on the market for purchase and use by the private sector, the agency shall be responsible to apply for a Zone Map Amendment to remove the P/I Overlay Zone from the property.
2. The Zone applied to the property shall be the Zone underlying the P/I Overlay Zone called for by the Comprehensive Plan Map.
3. This is a mechanism to provide notice to the community and neighboring property owners that the intended public use of the subject property is no longer part of the agency's future plan and that the property is available for the range of private sector uses provided for in the Zone that applies to the property after removal of the Overlay Zone.

H. Definitions.

1. Agency (Governmental Agency): Federal, State, County, or City government or unit or department thereof, constituted as such under the Constitution of the United States, or the State of Washington.
2. District: Port, School, Fire, Electric Utility, Gas Utility, or similar sub-municipal governmental taxing unit or service provider constituted as such under the Constitution of the State of Washington.

**EXHIBIT B**  
**OF ORDINANCE 1072-10**  
**AMENDMENT TO CHAPTER 16.08**  
**ADDING:**

**ESTABLISHMENT OF**  
**PUBLIC AND INSTITUTIONAL ZONE**  
**ITEM G. of SECTION 16.08.010**

**Division II. Zoning Districts**  
**Chapter 16.08**  
**ESTABLISHMENT OF ZONING DISTRICTS**

**Sections:**

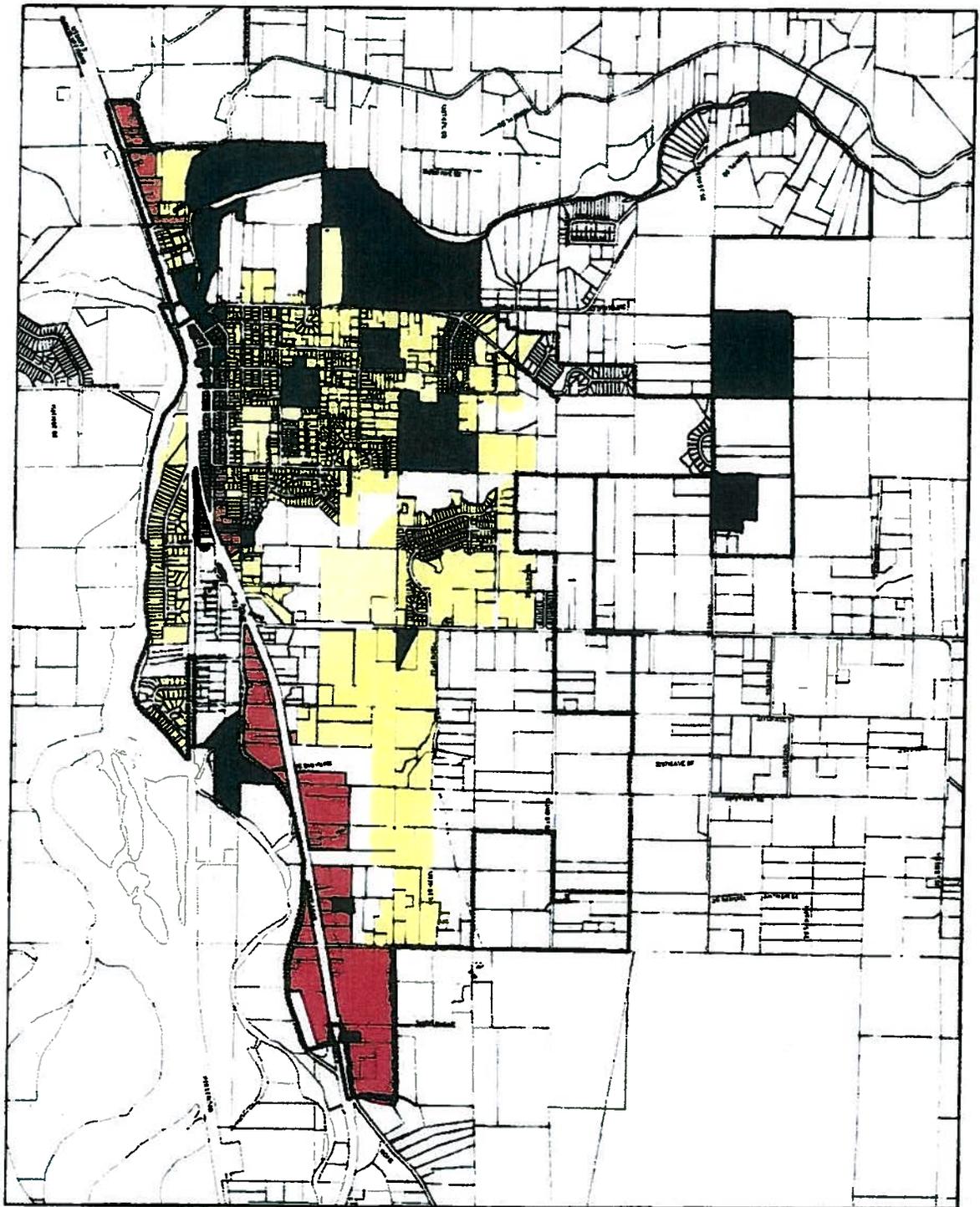
<u>16.08.010</u>	Establishment of zoning districts.
<u>16.08.020</u>	Establishment of zoning maps.

**16.08.010 Establishment of zoning districts.**

The city of Sultan is hereby divided into six zoning districts as follows:

- A. Low/moderate density zone (LMD);
- B. Moderate density zone (MD);
- C. High density zone (HD);
- D. Urban center zone (UC);
- E. Highway-oriented development zone (HOD);
- F. Economic development zone (ED). (Ord. 630 § 2[16.02], 1995)
- G. Public and Institutional zone (P/I)

Attachment A.C-1





**City of Sultan  
WASHINGTON**

**FUTURE LAND USE  
Comprehensive Plan**

**PROPOSED  
P/I  
ZONE**



N

**Legend**

-  City Boundary
-  UDA Boundary
-  Zoning & Land Use
-  Low/Moderate Density
-  Medium Density
-  High Density
-  Highway Oriented Development
-  Urban Center
-  Economic Development
-  UNZONED

**Scale**

0 1000 2000 Feet

UDA Boundary Adopted December 31, 2005  
 City Boundary Adopted December 31, 2005  
 Zoning & Land Use Adopted February 1, 2006

All boundaries shown including aerial photography, street centerlines, and other information are based on the Geographic Information System (GIS) data provided to the City of Sultan. The City of Sultan is not responsible for the accuracy or completeness of the information shown on this map. The City of Sultan is not responsible for the accuracy or completeness of the information shown on this map.

MAP DATE: AUGUST 2007

Prepared by: [www.sultanwa.gov](http://www.sultanwa.gov)

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Exhibit C-1

**ATTACHMENT B**

**PUBLIC/INSTITUTIONAL OVERLAY ZONE**  
**PLANNING BOARD MINUTES FOR**

**JANUARY 5, 2010; JULY 21, 2009; MAY 19, 2009; FEBRUARY 17, 2009; FEBRUARY**  
**3, 2009; AND JANUARY 20, 2009**

The following pages present excerpted minutes from Planning Board action on the P/I Overlay Zone. Only the portion of each meeting dealing with the P/I zone is provided.

SULTAN PLANNING BOARD MEETING MINUTES  
January 5, 2010

PLANNING BOARD MEMBERS PRESENT:

Frank Linth –Chairman  
Steve Harris  
Jerry Knox  
Bob Knuckey

CALL TO ORDER: Frank Linth calls the meeting to order at 7:00

PLEDGE OF ALLEGIANCE

ROLL CALL: See above

CHANGES TO THE AGENDA:

Change Discussion 2 to be discussed before Discussion 1.  
Action 1: The election of the Board to be decided on now.

**A-1: Election of Officers 2010**

Frank Linth for Chairman, Bob Knuckey moved, Jerry Knox, second. All Ayes  
Jerry Knox for Pro-tem, Bob Knuckey moved, Steve Harris second. All Ayes

PUBLIC COMMENTS

Mayor Carolyn Eslick: Welcomed the Planning Board to its New Year. There is an open position and she will wait until she has 4 applicants before making the decision on interview and appointment of new Planning Board. Looking forward to working with the Planning Board.

PLANNING BOARD MEMBER COMMENTS:

Bob Knuckey: Looking forward to the New Year and having a very busy and productive year.

Steve Harris: Thanked the Mayor and staff for all of their support and looking forward to the New Year.

Jerry Knox: Has enjoyed serving on the board and is looking forward to next year working with everyone.

Frank Linth: Appreciate being on the board and getting to know everyone.

APPROVAL OF MINUTES

Bob Knuckey moved to approve the minutes of December 08, 2009. Seconded by Jerry Knox. All Ayes.

HEARINGS AND ACTION ITEMS

**A-2: Set Planning Board Calendar For 2010**

The issue before the Board is the acceptance of the Planning Board Calendar for 2010. Regular Planning Board meetings will be held the first and third Tuesdays of every month for 2010. Bob Knuckey proposed an additional 6 study sessions/workshops to be set for the first Tuesday of each of the even months for 2010. The workshop meetings will be 02/02, 04/06, 06/01, 08/03, 10/05 & 12/07. The meetings will be from 3:00 to 5:00 prior to regular Planning Board meetings. On the setting of the 2010 calendar with 6 study session/workshops Jerry Knox moved to approve. It was seconded by Bob Knuckey. All Ayes

B-2

**A-3: Notice for 2010 Comprehensive Plan Docket Process**

The issue before the Board is a notice to the public of the Open Docket for Comprehensive Plan Amendments 2010. Provide notice that the docket opens at the beginning of each year and goes through to April 1<sup>st</sup>. Staff recommends that the Board authorize the notice. On a consensus by the Board the recommendation was accepted.

**H-1: Public Hearing on Public/Institutional Zoning Code Text and Map Amendment**  
Chairman Frank Linth opened the Hearing. No one was in attendance for the public hearing. Jerry Knox moved to close the Hearing, second by Steve Harris.

**A-4: Review of Public/Institutional Zoning Code Text and Map Amendment**

At its regular meetings of January 20, February 3, February 17, March 3, May 5, and July 21, 2009 the Board developed a draft of the P/I Overlay Zone. For various reasons, including work on the Comprehensive Plan Docket that provides policy direction for the P/I zone, final action on this proposal at the Board level has been delayed until this meeting.

The recommendation by the Board is to forward the Public/Institutional Zoning Code text and Map amendments to the Council with a recommendation for approval and with no additional public hearings required.

On a motion by Board Member Jerry Knox and Seconded by Board Member Steve Harris the recommendation was approved. All Ayes

**A-5: Set Public Hearing: Accessory Dwelling Unit Code**

The issue is to set a Public Hearing for removal of SMC Section 16.25, "Accessory Dwelling Units"

Staff's recommendation is to set a hearing for Feb. 2, 2010 because of a full meeting schedule in January.

On a motion by Jerry Knox and second by Bob Knuckey the recommendation was approved.

The Board made an additional recommendation to remove 16.18.051 from the code as well, as it is no longer pertinent.

On a motion by Jerry Knox, second by Bob Knuckey the recommendation was approved. All Ayes.

**A-6: Receive Direction from Council on Planned Unit Development:**

The issue before the Board is the updating of the Planned Unit Development provisions (SMA Chapter 16.10)

On recommendation from the Council the Board will begin to prepare a Lot Averaging Provision to replace the PUD code. Staff was directed to prepare the appropriate materials for further Board action.

On a motion by Bob Knuckey and second by Jerry Knox the Lot Averaging Provision was approved. All Ayes.

**STAFF PRESENTATIONS AND DISCUSSION ITEMS:**

**D-1: Comprehensive Plan 2011 Update Process: Land Use Element Goals and Policies**

The issue before the Planning Board is to review the proposed goal and policy changes to the land use element of the 2004 comprehensive plan and provide direction to staff.

B-3

**January 20, 2009 Planning Board Minutes**

**STAFF PRESENTATIONS AND DISCUSSION BY BOARD:**

**P-1 Presentation and discussion of proposed Amendment to Sultan Municipal Code, adding Section 16.12.070, Public and Institutional Zone:**

**Martin:** Explains tonight's presentation and discussion of proposed Amendments to Sultan Municipal Code, adding Section 16.12.070, Public and Institutional Zone, Amendment of the Comprehensive Plan Future Land Use Map, and Amendment of the Official Zoning Map, (SMC 16.08.020) to Zone "Unzoned" properties owned by the City. The City needs to establish a Public & Institutional Zone in the Unified Development Code, and amend the Comprehensive Plan Future Land Use Map and the Official Zoning Map to place the newly-created zone on two parcels of "Unzoned" property owned by the City.

The Zoning Codes and UDC typically contain a separate zone that is applied to public lands such as parks, public works yards, schools, hospitals, and other public and institutional properties and facilities. The Sultan UDC Title 16, does not provide for this Zone, due to the absence that Zone type in Chapter 16.12, there are two major properties owned by the City that are shown on the Comprehensive Plan Future Land Use Map and on the Official Zoning Map as "Unzoned". It is not appropriate to have a Comprehensive Plan developed under the Growth Management Act that explicitly designates properties as "unzoned".

Three steps are required: (1) The text of a Public and Institutional Zone must be developed and amended into the Unified Development Code. The location for this Zone would be a new Section 16.12.070. (2) The "Comprehensive Plan Future Land Use Map" is amended to remove the "Unzoned" designation from a portion of Randolph Reese Park and the Water Treatment Plant property. (3) The "Official Zoning Map" as established by SMC 16.08.020, is amended to conform with the new land use designation of these properties as provided in the newly-amended Comprehensive Plan Future Land Use Map.

Staff is recommending that the Board undertake development of the text of a Zone that provides for Public and Institutional Uses as a separate use from the Residential, Commercial, and Industrial categories that are provided for in the Comprehensive Plan and the UDC. This Zone can be amended into the UDC so that it will be available when the Comprehensive Plan docket can include amendment of the Future Land Use Map. Once the Comprehensive Plan map designates the subject properties as Public, the Official Zoning Map can be amended to remove the "Unzoned" label and Zone them as Public and Institutional.

There are other properties in the community that would also be appropriately zoned Public and Institutional. This includes other major city-owned sites such as the Public Works yard and related properties, and the several school sites. Staff will bring the proposed Zone text back to the Board at its next regular Meeting with any requested changes, if satisfied with the language a Public Hearing date could be set to gather public input on the proposal.

Any actions this evening do not affect the maps until the comp plan opens we need zone text written in Title 16.

**PB Members:** Much discussion among the group on understanding the concept and

the intent behind the requirement.

Martin: Discussed with members his experience and why these procedures are necessary and the logic behind the process.

Arndt: What is the intent to protect the residential areas and the government also? You need to be careful, to manage the potential growth and unwanted structures sneaking through a loop hole. Wants the uses included based on function, not just public ownership. A more filled out purpose statement / permitted agencies public offices b-1 and b-2 and go from there, then start bringing in development standards.

Shaw: Sect C and B state what existing zoning regulations already exist, why the overlap and why redo it if it already exists? city hall could fit into the commercial zoning or its unique to its own specific zone.

Knox: Allow for the greatest flexibility with fewest legal arguments down the road.

**Public Comments:**

Bob Knuckey: I hear about the city's interest on zoning what about the public interest. Lives across from the VOA but now they have a school. Do I have to worry about it becoming a school? Be concerned how zoning will affect the existing residents.

Harris: Agrees with Knuckey.

Knox: Did zoning allow it how did it happen?

Martin: They are applying for a CUP /Quasi public uses would be allowable on that property.

Knuckey: medium / moderate density school w/ CUP be respectful of current citizens property. So zoning changes don't affect those properties unduly. Protection of the public is important.

Arndt: Moves to postpone the education and slideshow to the next meeting on February 3, 2009, 2<sup>ND</sup> by

Harris, all ayes.

Arndt: Apologizes for his tardiness, welcomes Jerry Knox, it will be great working with him, Acknowledges Bob Knuckey explaining that if it was apparent its Mr. Knuckey's perspective exactly where he's coming from. Specifically if the private sector is required a certain function why should the city get the special treatment.

**February 3, 2009 Planning Board Minutes**

**D-3: Continuation of discussion of proposed Amendment to Sultan Municipal Code adding Section 16.12.070, Public and Institutional Zone:**

Martin: Opens discussion on Public and Institutional Zone in the Unified Development Code and what uses the Board wants to include in a P/I Zone? Requests PB direct Staff to return with follow-up information as appropriate. Zoning Codes and Unified Development Codes typically contain a separate zone that is applied to Public Lands such as Parks, Public Works Yards, Schools, Hospitals, and other Public and Institutional properties and facilities. The Sultan Unified Development Code, Title 16, does not provide for this Zone. The January 20, 2009 meeting Planning Board discussed this concept and a list of uses that could be included in such a Zone. At that time, based on subsequent conversations, it is appropriate to provide additional discussion regarding the purpose and function of a Public/Institutional (P/I) Zone. A set of discussion topics is provided in Attachment A discussion of topics and Attachment B typical uses in PI zone as discussed at the last meeting.  
City of Sultan Planning Board 5

If the Planning Board wishes to proceed with development of a P/I Zone, the main Land Use issue at this point concerns the range of uses that are covered in the P/I Zone. Public and Institutional uses that are not included in the P/I Zone need to be included in other Zones as outright or Conditional Uses. Does the Board want to include Private Schools, Non-Profit Community Centers, and similar quasi-public functions in a P/I Zone, or include them as outright or Conditional Uses in the various Residential and Commercial Zones? If they are included in the P/I Zone, listed public uses will typically have to go through a Zoning Map Amendment to establish a new facility site. If they are not in the P/I Zone, they typically would not have to go through a Zone Map Amendment, but would be subject to a Conditional Use Hearing. The P/I Zones put more burdens on the agency proposing the use to prove that the proposal complies with the Comprehensive Plan. The alternative of inclusion in each zone puts more burdens on neighbors objecting to the proposal to prove that the use does not meet the established Development Standards. The question of how this aspect of the Zoning Code is organized is completely a policy preference of the local jurisdiction.

Once the Planning Board has resolved recommendations on the first two policies questions, the next step is to discuss changes of use from Public Use to Private Use. This was a primary discussion during the Planning Board meeting on January 20, 2009. Should the City allow outright or discourage outright changes in use? The example used at the January 20th meeting was changing City Hall into an office building still owned by the City, but leased to private occupants, i.e. competing with the private sector for the office space market. This can be addressed in the text of the zone. If Staff is directed to proceed with a P/I Zone, we will address this question at the next Planning Board Meeting on February 17, 2009. Spot zoning is permissible in typical city formats. Do you want a PI Zone? What should be included in the zone?

Arndt: Requests to suspend the clock: for 10 minutes.

Knight: PB is not held to the clock suspension like City Council is.  
Much discussion among planning board members and staff on scenarios encountered with proposed zones and how that would be controlled. Two tiers are required in the implementation of the zoning uses, which is creating the zones, and 2nd the standards required if the use is enacted in such a zone.

Linth: Staff is asking us to make as judgment on attachment B.

Martin: More discussion is needed in order for staff to move forward on this issue, which can be resumed at our next meeting due to the late hour.

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**February 17, 2009 Planning Board Minutes**

**STAFF PRESENTATIONS AND DISCUSSION BY BOARD(continued)**

**D-2: Continued discussion on Sultan Municipal Code (SMC), adding Section 16.12.070, Public and Institutional (P/I) Zone**

Martin: Opens discussion on the next 2 policy questions for the Planning Board on P/I Zone. Should the P/I Zone be mandatory or optional on quasi-public service agencies and should agencies such as the Food Bank, and VOA have property zoned P/I be required to undertake a Comprehensive Plan and Zone Map amendment prior to placing their public property for sale to the private sector? A Staff draft was given to planning board members as well as examples from the City of Monroe and Snohomish.

If the zone is to be applied in a holistic fashion, quasi-public service agencies would be included in the first-round legislative process. This would make clear the status of properties such as that owned and operated by the Volunteers of America.

The second policy question for the Board to consider is whether public entities that have changed plans should be required to undertake a Comprehensive Plan Map and Zoning Map amendment if they no longer intend to use or develop their property for public use, and choose to sell it to the private sector for future private development.

Arndt: If the tactic is bait and switch they should have to pay accordingly. They should not wait "until" but declare upfront their intentions. If they want to undue something down the road then they do so at a cost. If the School District buy 60 acres and builds on 20 then sells off 40 acres, how will that work in a P/I zone? Properties that are undeclared, will they be automatically grandfathered? Do private owned properties have to pay the expense of the CUP? It would be helpful to compare functions, if they had an inventory. If city owned stamp its auto stamped P/I. Private owned property requiring a specific function of which requires it to go through an expensive process. Operate a school in a residential zone; guy in city bldg gets it for nothing, the non city owner as to go through an expensive process. Bob solution is simple give it all to them, all PI, even if they more accurately fit another zoning description. There are parts of this I am in favor of and other parts I question.

Linth: Is anyone not in agreement with Keith?

Staff and Planning Board continued discussion on ways to clarify confusion and/or perceived favoritism to public v. private sectors and a definitive approach to making the zone uses clear and not open to interpretation or an unfair process.

Martin: Advised Board Members he understands their questions and concerns and will bring back a revised draft document for the next meeting in an attempt to clarify the points the planning board members have raised with the policy.

### March 3, 2009 Planning Board Minutes

1: Set a Public Hearing on Public and Institutional zone, adding Section 16.12.070 to Sultan Municipal Code.

Martin: Goes over changes requested at the February 17, 2009 PB meeting, prior to setting a Public Hearing on Public & Institutional Zone section of the Zoning Code giving examples of the currently submitted proposals of allowed uses. How the zones are established and why certain uses are allowed.

Bob Knuckey: Does not have a problem with the concept of P/I Zone, his problem is with the Volunteers of America (VOA) and its current allowed use. He believes a Conditional Use Permit (CUP) is required in the moderate density area to do what the VOA is doing. With P/I Zone does that mean no permits are required? Right now it states 15 students or less, what exactly does that mean? The Sultan High School has 80 kids enrolled. How are the maximum allowed students being addressed. What does 15 or less mean? Does it encompass students only, students and teachers, he would like clarification. Other than the ambiguity in that section, he doesn't have a problem with the P/I Zone. He doesn't think the P/I Zone change should create a significant benefit or suffering as a result.

Chief Merlin Halverson SCFD#5: Would like questions answered on the P/I Zone in regards to the current Fire Station on Cascade View Dr and SR 2. 1. There are always other options, but if we find a building in town that would adequately fit the needs of the Fire Station would they just request it be amended to a P/I Zone?

Martin: Yes.

Halverson: Question 2, Fire District Office listed in "C" Permitted Uses does that include Fire Station's as well?

Martin: Fire Station use was left off because of different requirements.

Halverson: Currently both Sultan Stations are used in the same manner, it calls for a conditional use currently and it wasn't that way when the District bought it, it also references Heliport listed as a Conditional Use, those 2 things are concerning to the Fire District.

Martin: It is not a major issue all it means is, when a use is listed in a zone as a Conditional Use, it means it is allowed but requires one Public Hearing to make sure all the standards have been met, if all those conditions have been met when submitted to the Hearings Examiner under a Conditional Use the permit is issued, it is not up for negotiation.

Halverson: What will the criteria be and how do we find out? Please reserve some caution in exercising these mandated conditions, as the District does not want to be zoned out of something we already bought and paid for. What happens if someone buys a public entity use?

Linth: What happens in the event of drug seizure how does that work?

Martin: Exempt from the process.

Linth: What if it takes a year and 6 months to sell it then a problem exists and / or happens.

Shaw: How do they address a piece of property if the intent is to rid themselves of it within a year and it

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doesn't sell within a year.

Martin: The intent is not to make this difficult. However, it can't be discretionary, they must notify the public of what their intent is.

Harris: If the fire property automatically goes into that zoning what happens in the event of the sale, what is the conversion process, how is it removed?

Martin: It is a public hearing before the hearing board for a zoning map amendment. Offers to

Halverson to meet with the Fire Commissioners Board and explain the zoning language, the do's and don'ts and what is a non-conforming use.

Donated property should be a choice as to whether the Public Entity wants to use / keep / or sell the property.

Knuckey: Did his due diligence in investigating the zoning on his property prior to purchasing it, if he had known they were going to do what they are currently doing, he would not have purchased the property.

Linth: Would like some reference to the definitions in this language to clarify what some of the definitions are. Would like some reference to the 15 students inclusion of the context of the zoning regulations. What if the applicant misses something and the city authorizes it.

Martin: Concept called public duty doctrine. The applicant is responsibility to know the requirements of the zone. Advises Mr. Knuckey they will be adding language of what 15 student's means. Staff draft would have to have something references fire stations in conjunction with district offices.

Shaw: Why are Police Stations / Dispatch Operations and Hospitals in the allowed use category? Isn't that inconsistent?

Harris moves to set a Public Hearing on Public and Institutional Zone, with the additions discussed tonight adding Section 16.12.070 to Sultan Municipal Code with City owned zoning map, for Tuesday March 17, 2009

2<sup>nd</sup> by Shaw,  
opposed by Linth.

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## MAY 5, 2009 Planning Board Minutes

### **STAFF PRESENTATIONS and DISCUSSION BY BOARD**

#### **D-1 Public and Institutional Zone Text and Map**

Martin: We are here to revisit the P/I Zone concept as discussed at prior meetings of January 20, February 3, February 17, and March 3, 2009. At its February 17<sup>th</sup> Meeting, the Board made the following policy determinations.

1. Designation as P/I is mandatory for properties owned and/or managed for public use by Governments, Districts, and Quasi-Public Service Agencies.
  2. The function of land owned by governments, districts, and quasi-public service agencies is to be considered when placing the P/I Zone. Land that is undeveloped but is owned by the public or quasi-public entity with the intent of developing the site for public use at some point in the future is to be placed in the P/I Zone. Land that is owned by the public or quasi-public entity on a short-term basis that is not considered part of the development plan for the entity and is intended to be sold out of public or quasi-public ownership within one year of acquisition is not to be placed in the P/I Zone.
  3. Quasi-public service agencies such as Volunteers of America are to be included in the P/I zone.
  4. Governments, Districts, and Quasi-Public Service Agencies that acquire land or facilities for long-term ownership and/or management (greater than one year) shall notify the City of the ownership/acquisition, and request the City to undertake the Zone Map Amendment to include the property in the P/I zone. This shall be done at no expense to the requesting entity.
  5. Governments, Districts, and Quasi-Public Service Agencies who determine that a facility or property in their ownership is no longer included in their future plans and determine to sell the property to the private sector must apply for a Zone Map Amendment to remove the P/I Zone and revert the site to the appropriate Zone as called for by the Comprehensive Plan Map. This Zone Map Amendment shall be at the expense of the owning agency.
- City of Sultan Planning Board 3 May 5, 2009 Meeting Minutes

At its March 3, 2009 Meeting, the Board determined that it wanted to see the Zoning Map as it would look with the P/I Zone in place. The following issues were raised at that time: The Board wanted itself and the public to see the map during the public input process on development of the Zone.

Concern was expressed that property owners in the vicinity of a property that is to be zoned P/I need to have the opportunity to input on the decision after seeing the map, not just to have input on the text of the Zone and then find out that their property is in the vicinity of a P/I site.

It was understood that the text of the Zone controls which properties are zoned P/I, and that a property that meets the standards of the zoning text recommended by the Board would have to be zoned P/I. Stated another way; the only way to add properties or remove properties from the P/I Zone is to adjust the text of the Zone. A property meeting the standards of the Zone could not be removed from the Zone because a property owner in the area wanted to remove a particular property.

The map presented at the meeting is a close representation of the affected properties based on research into properties owned by Public and Institutional entities in the City. Additional

research, Board input, and public involvement may indicate additional properties that meet the standards of the P/I Zone text for inclusion on the Zoning Map. The map was presented to Planning Board Members at the meeting displayed on the wall. Previously the use of Fire District Office was omitted in the section it is now included at B 1, c. as an outright permitted use, in Version 3.

**PUBLIC COMMENTS:**

**D-1 PUBLIC AND INSTITUTIONAL ZONE TEXT AND MAP (Audio File 9)**

Merlin Halverson Fire District 5: Previous discussion about a fire station being purchased and zoned applicable to the intended use and now a rezone is occurring in which a conditional use permit would be required. We are working with an Architect to have a "shovel ready" project as a ¼ billion dollars has been set aside by the federal government for these types of projects and Fire District 5 would like a part of that. The architect they are working with stated it will cost the district \$30,000.00 to if they have to do a conditional use permit. The fire commissioners would like to see the current zone grandfathered in and avoid the Conditional Use process the rezone would mandate. Would like to know what the mechanism is in order to obtain that status; "grandfathered". The Fire District will be making the same pitch to the city council. He has been told the city has no hesitation to let them build their fire station there. The board is not against a public and institutional zone, but they want to build the fire station and not have to go through the Conditional Use Process. They are requesting this request be mitigated for that specific piece of property under the current zoning regulations and not the intended rezone regulations and a CUP.

Harris: When did you buy the property?

Halverson: 4 years ago and paid \$4.00 a square foot with the intention of building a Fire Station.

Harris: That was a permitted use when they bought it?

Halverson: Absolutely, as well as today it is still a permitted use. City of Sultan Planning Board 4

Bob Knuckey: I am arguing a losing battle; everybody wants the Education Career Alternative Program (ECAP) School, I across the street from him. Under item 8 he is still confused public schools or quasi public schools fewer than 15 students, I don't know what that means and asked the questions in the past and would like to know exactly what that means. Currently 15 are registered to go in the morning and another 15 in the afternoon which equates to a total of 30 students registered there currently. I think it is a mute problem, in the letter from Mr. Martin the ECAP School has been grandfathered into that location. That is just his comment at this point. (Audio File 10)

Arndt: Who operates the school?

Martin: ECAP is operated by Volunteers of America (VOA) through State and Federal Grants.

Arndt: If the high school goes away is it so the other side of the school can increase the enrollment?

Martin: No. The High School cannot provide the correct facilities in order to continue holding high school classes at that location.

Arndt: Chief Halverson please clarify the rights you want to maintain on the current piece of property.

Halverson: We want the right to build a fire station and not go through a conditional use permit which will require we go through a lengthy process and there is no guarantee we could still build there.

Arndt: Permitted Uses v. Allowed Use it has to do with impact on the local neighborhood.

Halverson: It's not in a residential neighborhood, and we bought there because it was not in a residential neighborhood we are across from a dump, across the highway from Barmon Lumber and not a residential neighborhood.

Linth: The fact it has gone from a permitted use to conditional use, means it goes from a permitted used to a permitted use with conditions. The conditions are put in place to mitigate potential effects on the local area.

Halverson: That is a huge concern, when we don't even know what the conditions are going to be and that's part of the concern the Fire District has. We have been through a long struggle with the property. It's out of the floodplain, 500 year, good soil quality; the city needs a fire station. A process is required with a conditional use application if we knew this was going to change we may have reconsidered our purchase. Our architect has stated anytime you put conditions on a piece of property there is a lengthy process involved in getting approval for the conditional use.

Harris: Who is on the Fire Commission Board?

Halverson: Roger Knowlton, Mike Ingalls, and Steve Fox, this board represents 72 square miles in East County.

Martin: There is an expanded process and there are costs, I don't know the architects history or the size of communities in which he has built. I don't agree with the cost estimate he has projected. I can't see in my experience with the process proposed were we would get anywhere near a \$30,000.00 cost for CUP's. An alternative could be currently only 1 Fire Station in the City of Sultan, and somewhat rural. Fire Station is under c fire district office is under b, under the assumption, if there is likely in the lifetime of only 1 fire station in the city of sultan, in a rural setting, the board could without harming any local occupancies move fire station from C to B-1.c, Fire District Office and Fire Station as outright permitted uses. We know where the Fire Station will go and does not disrupt neighbors; it will still be required to meet the state access highway mandates. The Board re-visits this in 3 years and sees if it needs to be changed at that time.

Halverson: Our concern is we run sleepers out of there at night, my concern is if we change this we could have to cease working as a fire station and we couldn't have a manned station at night with the station on Alder. We are concerned we would be thrown off the property for an illegal use.

Martin: What is ever there at this time is grandfathered and is a legal non-conforming use, what exists right now is a legal use. Given the current proposed location we could safely say that the fire station would not be significantly different or need to meet different standards if it was not subject to a conditional use procedure.

Halverson: Heliport should not be an issue

Harris: Who will establish the conditional uses per use in specific locations?

Martin: The Hearing Examiner. Conditional Use means there are development standards and criteria that need to be shown and met as a condition of the permit, you meet the criteria you get the permit. They are listed in the SMC 21.04 and are currently very general 21.04.050 as listed. We submit a Staff Report to the Hearing Examiner with the intent of an approvable application.

Harris: Are there R.C.W's involved?

Martin: No, other than the ones that they have to meet to build a fire station regardless of our local permit review procedure.

Halverson: I think the Board would be satisfied if it was put into an outright use v. conditional use, we are not asking for any special privileges here. We are the only apparent government agency who has bought a piece of property that was properly zoned and now that is potentially being changed. In making this change it would appear we should be made whole by the City.

Knox: No matter where the Fire Station is placed on this list, conditions will have to be met, correct?

Martin: The procedures will be different, there is a Public Participation Policy required with a Conditional Use. Other than that you are looking at performance standards that have to be met whether or not there is public participation.

Arndt: Have you held any public hearings and taken any input?

Halvorsen: All our meetings are public, but none have been specific to this issue. We can't have a shovel ready project if we have to go through public participation process and a conditional use process and still not knowing what those conditions may or may not be

Arndt: I think it is important to have participation from all of those who live in the local area that may potentially be affected by the Fire Station. There has been no Public Participation to date for establishing a Fire Station in that location. I support the CUP concept for Fire Station(s).

Halverson: Our position is that when you purchase a piece of property and we checked the zoning which is / was an allowed use, we did our due diligence. It has always been zoned for a Fire Station show the surrounding residents should not be surprised that a Fire Station will be built in an area that is currently zoned for the construction of Fire Stations.

Linth: Directs Staff build 2 scenarios for this project going forth as a permitted use and how would it move forward as a conditional use, with a rough dollar figure and timeline and let us review it. I think a rule should be established to accommodate the majority. I am leaning in the direction of the CUP. If the change creates costs become extreme we will address it to make it happen. (Audio File 18)

Martin: I would like to meet with the Fire Departments architect to go over some of these perceptions and concerns and see what we can resolve.

Halverson: I will get that to you, I think that you and I should meet with the Board of Directors and the Architect.

Arndt: The school thing is unique in a non-profit organization changes to another non-profit organization like a church is there a way to eliminate that label and stream line it?

Martin: If you don't want it to show up on a zoning map then you remove it from the zoning text. The purpose of the map is to inform citizens of what is going on in the community. The board

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will need to direct how to respond to the non-profit organizations and similar and quasi public service entities.

Harris: I think it should be removed.

Linth: I am uncomfortable with it as well but don't know what the solution would be.

Arndt: Archive buildings and inside storage unless they are adjacent to the main operation I don't think they should be listed. I can see parking structures continuous to the main operation. Purpose is accomplished by limiting residential and privately owned operations>

Martin: That can go away.

Arndt: Purpose is accomplished by protecting adjacent properties from potential impact by public uses.

Martin: More specific implementation of the specific standards of the varied uses, other than standards in residential uses.

Arndt: Could that be defined better?

Martin: Okay.

Arndt: Quasi public schools? Do you mean charter or private schools, what is that? Martin: The intention was public funded private non-profit agency performing school function but not a school district.

Arndt: School bus base, what about other public transit or charter services? Is that why it is on the list?

Martin: You can combine 12 and 13 and not lose anything.

Arndt: Okay. (Audio File 23)

Linth: A hospital is a permitted use, so why wouldn't a fire station be a permitted use also.

Martin: Hospitals should not be allowed to do what you just indicated they can currently do. Hospitals should be deleted from the other private land use zones.

Arndt: Are you trying to zone all the trails? Is there a danger in getting to specific in these labels? Are we getting to close to that line?

Martin: Nature Preserves, Trails, Ball Fields could be lumped together into a public recreation category.

Arndt: I would request the definitions section be moved to the beginning of the document instead of the end of the document so you understand the terms more easily.

Knox: Are there any extra protections to the residents who are exposed to busy areas. Like the school at VOA and the surrounding residents?

Martin: The setbacks shall be increased from the minimum based on the project review process.

Knox: Do the design review standards come into play? What else besides increased setbacks are there to protect the private homeowner?

Martin: That is what SEPA brings to the issue. Protections are based on the use besides set backs SEPA reviews the use. Design review standards are also a part of these uses. .

Martin: Do I have consensus to remove non-profit from the map and text? If the board directed non profit from the text the VOA and housing hope comes off of green, then it remains what it currently is. You let non-conforming issue stay the course under its current use. The non-conforming use is not for this board.

Arndt: The other part not cleaned up is non-profit organizations who have morphed their uses outside the proper use, and shouldn't we clean those up.

Martin: No, you are exceeding your authority and becoming site specific like a quasi-judicial authority. I have consensus to remove Board Directed Non-Profit entities and return with a revised text and a map showing revisions removing non-profit entities.

*Martin: Reads an email from Jerry Gibson who submitted a written comment which was read into the record. He asserts there is a conflict of interest or the appearance of a conflict of interest for some of the board members when submitting recommended changes to Titles 16 and 21 to the Council.*

Review the Zone text and the display representing the potential placement of the P/I Zone on the Zoning Map according to the current Draft of the Zone Text, and provide staff comments on further action.

## May 19, 2009 Planning Board Minutes

**Review the modified Staff draft of the P/I Zone text and the display representing the potential placement of the P/I Zone on the Zoning Map. Determine directions on the issues presented in the discussion section below, and set a Public Hearing for June 2, 2009.**

Martin: This is the 6<sup>th</sup> return on this zone the regular Meetings of January 20, February 3, February 17, March 3, and May 5, 2009, the Planning Board discussed concepts and issues related to establishment of a P/I Zone in the Sultan Zoning Code. The recommendations made at these meetings have been incorporated into the latest version for Planning Board comment and review. With regard to the Fire Station a consensus was not met with on that issue and has provided different alternatives to the Board for consideration. Believes the Fire District and Architect may have the perception of the projected City of Sultan Planning Board 2 May 19, 2009 Meeting Minutes 30,000.00 costs for any Conditional Uses associated with the project but is not a reasonable figure given this situation in the City.

The May 5<sup>th</sup> Meeting the Board determined to remove non-profit quasi-public service organizations from the text of the P/I Zone. This removes entities like Housing Hope, a quasi-public agency providing housing for low-income residents from the P/I Zone. The finding was that the apartments owned and operated by Housing Hope are not distinguished from other apartment housing in any apparent way, and that the quasi-public legal status of Housing Hope and similar entities is not sufficient to include them in the P/I Zone. The case of Housing Hope and similar uses is a clearly defined and easily enacted removal from the Zone.

The owner/operator is not a government and the use is not distinguishable from other similar privately owned apartment buildings. Removal of this category simplifies the Zone and draws a "bright line" that also clearly takes churches off the list, recognizing that churches are typically not included in P/I Zones.

The Volunteers of America (VOA) site and any others like it. While it is a non-profit operated by a Board of Directors, like Housing Hope, it is distinguishable from other Board operated non-profit operations based on its use. The use is clearly a public service, including a camp, community accessible meeting spaces, educational services, etc. The combination of uses and the configuration of facilities on the site cannot reasonably be envisioned to be provided by a private for-profit business, and the types of uses on the site are not those found elsewhere in the community as part of privately owned property. Based chiefly on the uses, and secondarily on the quasi-public agency ownership, staff feels that the VOA site meets the criteria for inclusion in the P/I Zone.

The Definition Section required additional work, it was further suggested the definitions be brought to the front of the Zone text for ease of use. Certain uses provided at the site would be in outright use category and others would be in the Conditional Use category. In the case of adoption of a new zone through the legislative process, the uses that legally exist in the prior zone at the time of adoption of the new zone are validated (grandfathered). Uses that do not exist legally under the prior zone are not grandfathered.

The Fire District #5 site on Highway 2, near the east City Limits, fits the criteria for inclusion in the P/I Zone because it is owned and operated by a governmental taxing district. This is not argued by the District. Discussion at previous Board meetings based on involvement and testimony from the District is whether the use of "Fire Station" should be an outright use or a Conditional Use in the P/I Zone. At the May 5<sup>th</sup> Meeting, the Board asked for a review of the

difference between the outright use process and the Conditional Use process for use of a fire station. The additional work for a Conditional Use is:

1. Consultant Prepares responses to 5 CUP criteria,
2. Mail notice is given to neighbors,
3. Consultant attends Public Hearing at Hearing Examiner,
4. Hearing Examiner submits decision within 14 days of Public Hearing,
5. Estimated cost of Consultant effort specific to CUP approximately \$6,000.00.

Linth: Thanks staff for the time involved in preparing the analysis to allow board members to better understand the difference(s) between Permitted Use v. Conditional Use. Staff draft shows a 6 week difference with Conditional Use Process and approximate cost of \$6,000.00 as opposed to the \$30,000.00 indicated by Chief Halverson. Fire Department purchased the property under specific zoning laws and chose that property because of those. Doesn't believe the difference between an outright use and a conditional use is significant enough to cause alarm. His research has found that all other districts have their Fire Stations with Conditional Uses and hasn't found one as an outright.

City of Sultan Planning Board 3 May 19, 2009 Meeting Minutes permitted use because of the impact on the local community. Conditional Use is no longer an issue in his mind with regard to zoning.

Harris: Believes Chief Halverson is coming from the position of the actual cost not so much if he will be able to achieve the Conditional Use requirements and be able to build the Fire Station.

Martin: Applicable development standards are the same in both columns. The public process cannot stop the construction if the conditional uses are met. Plans on attending the next Fire Commission Meeting and explain exactly what is meant by Conditional Use Permit.

Linth: (Audio MZ0009) Reviews with Staff and Board Members what is allowed in Conditional Use and what is not a Permitted Use. Points out categories he believes should be listed as a Conditional Use: C. 1. d,e,f, 2. b, 12, 13, and 14.

Harris: Adds C. 6 Courts impact the local area / residents.

Linth: Definitions B. 3, what Does *Quasi-public Service Agency* mean? Was not able to find a clear definition of exactly what that means.

Martin: I do have a definition for that term.

Arndt: Overlay is not included in the zone description; would like clarification.

Martin: Will make note for clarification.

Arndt: Would like B.2, amended to Public Utility instead of District which would include gas, cable, phone etc.. B.3. Quasi Public Agency implies institution chartered by a government to provide services, post office etc., it seems the term is limited, how do you deal with public services providers like the Food Bank, VOA, etc.? Believes another definition added to this section addressing public service providers, would be in order.

Martin: Most of the list mentioned in that regard is not quasi public they are fully public qualifying as a government entity. Acknowledges Arndt's recommendation for two separate definitions.

Martin: The telecom section of the code defines small scale communication towers and an antenna,

including it again in this section makes text duplicative and overly burdensome.

Arndt: Continues with Public / Institutional Zone questions, concerns, C.13, 14 should be a CUP. D. 5 large scale is undefined can that be defined? 9. Jail would like changed to criminal detention facilities that encompass multiple types of holding facilities. Definitions in Section B come into play in section F. 1. d,e,f, is where quasi public definition is split out.

Martin: Agrees with Arndt's interpretation.

Linth: Permitted uses should be limited. Goes down his list of recommendations with board members and requests input. Anything that will impact the Community should be listed as a Conditional Use.

Martin: The direction you will receive from me as we continue on with other zones will be a direct conflict with that approach. The zone trend is to have a short list of Conditional Uses, intermediate level of use. City of Sultan Planning Board 4 May 19, 2009 Meeting Minutes called administrative review and outright use that usually take up 80-90 % of the zoning code very few are listed as CUP. This is to assist applicants in getting through the process effectively and efficiently.

Linth: Suggests board member go down the list and weigh in on each use.

Martin: Recommends the Board is perhaps getting to detail oriented with the specific uses and this process is becoming labor intensive. Would like to receive Board suggestions and the draft brought back will be the public hearing draft. Requests a consensus direction on these large scale and small scale uses.

Arndt: Questions H. 1 and H. 2, Overlay Zones G. 1 questions the word leased are included along with Owned.

Martin: Will make the requested amendments. Additional changes can be made after the Public Hearing if they are responsive to input.

Arndt: F Land owned by government would like to see it changed to Property owned by Government.

Arndt: Moves to hold a Public Hearing (with tonight's recommendations) on the Public /Institutional Zone on June 2, 2009,

2<sup>nd</sup> by Harris,

all ayes.

## July 21, 2009 Planning Board Minutes

### **STAFF PRESENTATIONS AND DISCUSSION BY BOARD**

#### **D-1 Update on the Public/Institutional Zone**

Martin: Fire District position the site is already purchased on Hwy 2 and Cascade View and constitutes a defacto prior vesting the city should honor for a fire station without a conditional use procedure, they have engaged legal counsel. Legal Council advised them the city has the authority to adjust zoning laws through the legislative process and such contention of prior vesting is a position they can choose to take. It was understood that position may not survive a court challenge, the city has no interest in being involved with a lawsuit between the city and fire district. The direction course of action was to work with the fire department and legal counsel and find a solution to this issue so the city can finalize adoption of the P/I Zone. The case in Washington Supreme Court Law called Noble Manner is liberal vesting law. The fire department files a land use action request which would vest them in a fire station on that property only under the current zoning regulations with no conditional use process. Under that law we are required to approve it. There would be no further disagreement on the topic with the Fire Departments objection to the public and institutional zone and it goes forward without further challenge to the City Council. We hope to have the Fire Department Land Use Application soon and can hopefully approve application is expected mid September. (Audio File 24)

SULTAN PLANNING BOARD MEETING MINUTES  
January 5, 2010

PLANNING BOARD MEMBERS PRESENT:

Frank Linth –Chairman  
Steve Harris  
Jerry Knox  
Bob Knuckey

CALL TO ORDER: Frank Linth calls the meeting to order at 7:00

PLEDGE OF ALLEGIANCE

ROLL CALL: See above

CHANGES TO THE AGENDA:

Change Discussion 2 to be discussed before Discussion 1.  
Action 1: The election of the Board to be decided on now.

**A-1: Election of Officers 2010**

Frank Linth for Chairman, Bob Knuckey moved, Jerry Knox, second. All Ayes  
Jerry Knox for Pro-tem, Bob Knuckey moved, Steve Harris second. All Ayes

PUBLIC COMMENTS

Mayor Carolyn Eslick: Welcomed the Planning Board to its New Year. There is an open position and she will wait until she has 4 applicants before making the decision on interview and appointment of new Planning Board. Looking forward to working with the Planning Board.

PLANNING BOARD MEMBER COMMENTS:

Bob Knuckey: Looking forward to the New Year and having a very busy and productive year.

Steve Harris: Thanked the Mayor and staff for all of their support and looking forward to the New Year.

Jerry Knox: Has enjoyed serving on the board and is looking forward to next year working with everyone.

Frank Linth: Appreciate being on the board and getting to know everyone.

APPROVAL OF MINUTES

Bob Knuckey moved to approve the minutes of December 08, 2009. Seconded by Jerry Knox. All Ayes.

HEARINGS AND ACTION ITEMS

**A-2: Set Planning Board Calendar For 2010**

The issue before the Board is the acceptance of the Planning Board Calendar for 2010. Regular Planning Board meetings will be held the first and third Tuesdays of every month for 2010. Bob Knuckey proposed an additional 6 study sessions/workshops to be set for the first Tuesday of each of the even months for 2010. The workshop meetings will be 02/02, 04/06, 06/01, 08/03, 10/05 & 12/07. The meetings will be from 3:00 to 5:00 prior to regular Planning Board meetings. On the setting of the 2010 calendar with 6 study session/workshops Jerry Knox moved to approve. It was seconded by Bob Knuckey. All Ayes

B=20

**A-3: Notice for 2010 Comprehensive Plan Docket Process**

The issue before the Board is a notice to the public of the Open Docket for Comprehensive Plan Amendments 2010. Provide notice that the docket opens at the beginning of each year and goes through to April 1<sup>st</sup>. Staff recommends that the Board authorize the notice. On a consensus by the Board the recommendation was accepted.

**H-1: Public Hearing on Public/Institutional Zoning Code Text and Map Amendment**

Chairman Frank Linth opened the Hearing. No one was in attendance for the public hearing. Jerry Knox moved to close the Hearing, second by Steve Harris.

**A-4: Review of Public/Institutional Zoning Code Text and Map Amendment**

At its regular meetings of January 20, February 3, February 17, March 3, May 5, and July 21, 2009 the Board developed a draft of the P/I Overlay Zone. For various reasons, including work on the Comprehensive Plan Docket that provides policy direction for the P/I zone, final action on this proposal at the Board level has been delayed until this meeting.

The recommendation by the Board is to forward the Public/Institutional Zoning Code text and Map amendments to the Council with a recommendation for approval and with no additional public hearings required.

On a motion by Board Member Jerry Knox and Seconded by Board Member Steve Harris the recommendation was approved. All Ayes

**A-5: Set Public Hearing: Accessory Dwelling Unit Code**

The issue is to set a Public Hearing for removal of SMC Section 16.25, "Accessory Dwelling Units"

Staff's recommendation is to set a hearing for Feb. 2, 2010 because of a full meeting schedule in January.

On a motion by Jerry Knox and second by Bob Knuckey the recommendation was approved.

The Board made an additional recommendation to remove 16.18.051 from the code as well, as it is no longer pertinent.

On a motion by Jerry Knox, second by Bob Knuckey the recommendation was approved. All Ayes.

**A-6: Receive Direction from Council on Planned Unit Development:**

The issue before the Board is the updating of the Planned Unit Development provisions (SMA Chapter 16.10)

On recommendation from the Council the Board will begin to prepare a Lot Averaging Provision to replace the PUD code. Staff was directed to prepare the appropriate materials for further Board action.

On a motion by Bob Knuckey and second by Jerry Knox the Lot Averaging Provision was approved. All Ayes.

**STAFF PRESENTATIONS AND DISCUSSION ITEMS:**

**D-1: Comprehensive Plan 2011 Update Process: Land Use Element Goals and Policies**

The issue before the Planning Board is to review the proposed goal and policy changes to the land use element of the 2004 comprehensive plan and provide direction to staff.

B-21