

**SULTAN PLANNING BOARD
AGENDA ITEM COVER SHEET**

ITEM NO: A-4
DATE: January 5, 2009
SUBJECT: Public/Institutional Zone Review and Recommendation
CONTACT PERSON: Robert Martin, Community Development Director

ISSUE:

Review Public and Institutional Overlay Zone (P/I) text and map amendment for recommendation to City Council.

RECOMMENDATION:

Review the following:

1. Public input received at the public hearing (Agenda Item H-1),
2. **Attachment A** proposed amendment to SMC Title 16, adding Chapter 16.12, Public/Institutional Overlay Zone and amending the Zoning Map (**Attachment B**) to place the Public/Institutional Overlay Zone on land owned or managed by governments and public agencies.

Provide direction to staff on any desired modifications to the P/I zone.

Move to forward to Council for adoption in sequence with final Council action on 2009 Comprehensive Plan Docket.

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 of a P/I Overlay Zone. **Attachment C** provides the excerpted minutes from these meetings for full background on previous activity leading to this meeting.

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.

DISCUSSION:

The attached P/I Overlay Zone text has been revised to accommodate the input from the Board as of the May 5, 2009 meeting.

Characteristics of the zone as currently constructed 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 do 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. This zoning code action in this Planning Board Agenda Item follows up with the P/I Overlay Zone once the properties have received an allowable Comprehensive Plan Designation.

If moved forward at this meeting Planning Board work on the P/I zone is complete. It will be scheduled on the Council Agenda as soon as the comprehensive plan docket activities as discussed in comment #7 above are complete.

ALTERNATIVES:

1. Forward to City Council for adoption in sequence with Comprehensive Plan Docket process.
2. Modify as appropriate based on Board input and public input received at this meeting, instruct staff as to desired modifications and forward to Council.
3. Give direction regarding desired modifications and bring back to Board for further consideration.
4. Do not forward to Council, stopping further action on development and implementation of the P/I zone.

RECOMMENDATION:

Consider public input from hearing (Agenda Item H-1) and provide direction to staff on any desired modifications to the P/I zone. Move to forward to Council for adoption in sequence with final Council action on 2009 Comprehensive Plan Docket.

At its May 5th meeting the board determined to remove non-profit quasi-public service organizations from the text of the P/I zone (**ATTACHMENT A**). 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 definition section was found to be in need of additional work, and it was suggested that the definitions be brought to the front of the zone text for ease of use.

DISCUSSION:

General Criteria:

There are two criteria that typically place a property or a use in a P/I zone:

- The first is ownership/operation by a governmental entity of some sort. This includes Federal, State, County, City, and sub-municipal districts such as school districts, port districts, electric power districts, etc., and some other types of public service agencies. The service agencies are where planning decisions move to grey instead of black and white.
- The second criterion is that the use is a public service distinguishable from services typically provided by private enterprises. This often involves the public service agencies mentioned in the above bullet point.

Housing Hope and Similar Uses:

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.

Volunteers of America Site:

That leaves 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.

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.

Fire District Site:

The Fire District 5 site on HWY 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 zone. At the May 5th 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. **Attachment B** to this report provides that basis analysis. The attachment cannot presume to know the costs that any particular engineering or consulting firm would charge for their services.

It is recognized by the Fire District and the staff that the station will need, in all substantive ways, to meet the same construction, site development, road and highway access standards, State Environmental Policy Act (SEPA) analysis, and mitigation standards regardless of whether the use is outright with staff review or conditional with staff and hearing examiner review. The main distinction is the public notice and involvement process. Neighbors within 300 feet and the public at large will be notified if the application is subject to a conditional use hearing process. The public could provide input on specific code-required screening or other mitigations for spill-over impacts that would not be caught by the staff and might be required by the hearing examiner.

Alternatives:

1. Recognizing that the site is located in an area with only a couple of residential structures in the vicinity, the Board could make findings that the anticipated impacts would reasonably be expected to be accommodated in the standard SEPA process and through implementation of the applicable environmental and engineering standards without the need for involvement of the hearing examiner. This would lead to a decision to move “Fire Station” to the outright use category. This assumes that there is to be a fire station constructed at the site currently under consideration, and recognizes that other sites may be selected for construction of a fire station that have many more residences in the immediate vicinity than the currently selected site.
2. Recognizing the importance of public involvement even when few residential structures are in the general vicinity, the board could make findings that a fire station presents the potential for sufficient spill-over impacts that a conditional use process is appropriate for the community. This leads to a decision to retain “Fire Station” in the conditional use category.

CONSTRAINTS ON PROCESS AND DECISIONS:

All discussions, recommendations, and decisions must be within the legislative level process. This means that deliberations, recommendations, and, ultimately, city council decisions must be based on the text of the zone and findings related to general applicability of the zone in a community-wide fashion. Assurances or exemptions, or special provisions for a particular property are in the realm of quasi-judicial process, and are not in the authority of the Planning Board.

ATTACHMENTS:

Attachment A: Staff draft of P/I zone (version 4 incorporating May 5th policy determinations).

Attachment B: Analysis of outright use vs. conditional use procedures for large scale P/I applications.