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Memorandum

NOT PRIVILEGED

To: Board of County Commissioners
CC: Dale Pernula, Planning Director
From: Ryan Walters, Civil Deputy Prosecuting Attorney
Date: January 9, 2013
Re: Land Use Legislative Reform

Summary

We have prepared an ordinance for Board adoption in January that changes the process for amending land use regulations, restructures the Planning Commission, and will require the Board to appoint new Planning Commissioners to new terms.

Background

Last year, we began seriously looking at ways to improve the performance of the Planning Commission and streamline our legislative process for adoption of comprehensive plan amendments and new development regulations.

- On **January 31, 2012**, the Board sent the Planning Commissioners a letter with a list of 17 questions soliciting their input into possible reforms of the Commission and the legislative land use process.
- We met with the Planning Commission at their **February 7** meeting to discuss the letter and solicit further input.
- At the **March 6** Planning Commission meeting, we described bullet points of the draft proposal and promised to provide the PC a copy of the final draft ordinance when it goes to the Board.

We then put this effort on the backburner while we waited for the new PDS director and worked on other projects. With four Planning Commission terms ending on January 31, 2013, and another four scheduled to end in the following year, we stepped up our work last fall on the text of the proposal.

On Tuesday, we met with the Planning Commission to review in detail the changes the Board is considering, especially the changes to the Planning Commission's structure. In the discussion, the Planning Commission was less concerned with their structure than other provisions that ensure public participation and set minimum requirements for public notice. We emailed the Planning Commission a preview of the ordinance text, and provided Commissioner Ehlers a paper copy.

The Proposal

The current draft proposal includes a number of proposed reforms to both the legislative procedures for adoption of comprehensive plan amendments development regulations and the structure of the Planning Commission. We plan to make the full draft ordinance available to the Board as soon as possible.

- **Reconfigured Planning Commission terms.** Planning Commission terms would become three-year terms, evenly staggered so that three end each year, and terms always end on January 31. Each County Commissioner could expect one PC term for his or her district to end every year. The County could then advertise for three positions each year, all at the same time.
- **Structured process for Planning Commission appointments.** The ordinance *requires* the Board to advertise for each Planning Commissioner position whenever it becomes vacant or the term ends, even if the Board plans to reappoint the incumbent commissioner. Each county commissioner gets one appointment each year, subject to confirmation by the entire Board.
- **Reappointment of all Planning Commissioners.** Because the ordinance dissolves the Planning Commission and reconstitutes it, the Board will need to make all-new appointments. We recommend this occur by separate resolution.
- **Required ongoing education of Planning Commissioners.** In the last two years, the Department has offered and encouraged Planning Commissioner attendance at parliamentary procedure and land use law trainings. The ordinance would require Planning Commissioner participation in such a training at least once per year. For example, the Department of Commerce is offering a Short Course on Local Planning in Bellingham in May 2013.
- **Procedural rules.** The ordinance rescinds the Planning Commission bylaws and adopts Robert's Rules of Order as the basic rules of procedure, designates the Planning Director responsible for setting meeting schedules and agendas, and allows county staff, including Planning Department and legal staff, to raise points of order and interject points of information. It also defines the roles of the Planning Commission officers, and requires PC members to comply with the Open Public Meetings Act and Public Records Act.
- **Requirements for initiating legislative proposals.** The ordinance would require the Board to amend the Planning Department's work plan to initiate work on legislative land use proposals (development regulations or comprehensive plan amendments).
- **Restructured process for legislative proposals.** The remainder of SCC 14.08 regarding processing of legislative proposals is restructured to streamline both the verbiage and the substance. The ordinance defines the format and structure of the Planning Commission's recorded motions, and the Planning Department's staff reports.

- **Creation of a structured way to submit development regulations.** Consistent with GMA, the ordinance allows the public to submit suggestions for development regulations just like they currently can with comprehensive plan amendments.
- **Updated public notice procedures.** E-mail and web-based notice of legislative proposals are required, and the content of those notices is defined.

Reforms Not Included

The ordinance does *not* include any of the following possibilities that we had discussed:

- **No change in number of Planning Commissioners.** We like the stable and regular staggering of Planning Commissioners with three-year terms and a nine-member body. We therefore propose no change in the number of commissioners.
- **No term limits.** The proposal does not create any limit on the number of terms a PC member may serve, nor limits on the number of terms a member may serve as chair.
- **No stipend.** The proposal does not include any stipend for Planning Commissioners.

Next Steps

Schedule

Because this ordinance does not amend development regulations or the comprehensive plan, it is not a land use regulation and does not require review and approval by the Planning Commission. Like any ordinance, however, it does require a public hearing with at least ten days notice.¹

Four terms of existing Planning Commissioners end on January 31. In order to adopt these reforms to be effective on February 1, and avoid reappointing Planning Commissioners for additional partial terms, we must accomplish the following benchmarks on the following schedule:

Date	Event
Thursday, January 9	Advertisement of public hearing date and comment period appears in SVH
Friday, January 10	Publication of proposed ordinance on front page of county website
Tuesday, January 15 at 8:30 am	Brief presentation to the Board with overview of the proposal
Tuesday, January 22 at 11 am	BOCC public hearing on proposed ordinance
Tuesday, January 22 or 29	BOCC adoption of proposed ordinance
Concurrent with, or after, adoption of ordinance	BOCC adoption of resolution appointing new Planning Commissioners
February 1	Effective date of new ordinance

Reappointment of Planning Commissioners

Because the ordinance dissolves the existing Planning Commission and then recreates it under a different statute, the Board will need to appoint Planning Commissioners to the new Planning Commission, consistent with their new staggered terms. We recommend enacting the appointments through a separate resolution concurrently with, or after, adoption of the ordinance.

¹ RCW 36.32.120(7)