

Overview of Comprehensive Plan Amendment Concerns and Staff Responses

The public record contains a wide array of opposition and support as expressed by members of the neighborhood and community during the zoning code amendments, the Conditional Use Permitting process and now the Comprehensive Plan amendment process. Generally, the opponents concerns address compatibility that range from support of the camp by finding an alternative location more conducive to residential uses; to harmful impacts on camp residents; and impacts on current and future industrial uses. Supporters generally believe that the proposed Quixote Village, as proposed by the County and Panza, will be compatible. The follow provides a summary of specific concerns from Heather Burgess's June 4 Correspondence and a staff response as follows:

1. ***Comprehensive Plan amendments may only be considered once a year during the annual plan amendment cycle.***

Response: The GMHB's "Clarification" to the "Request for Guidance and Supplementation of the Record" provide that the City could amend the Comprehensive Plan by the August deadline.

2. ***The hearing notice was too short to provide for adequate public participation.***

Response: The City continues to follow our public process regulations. The time is limited by the GMHB August deadline. The public record was left open to June 8. The Planning Commission recommendation will be forwarded to the City Council for future consideration. The City Council will schedule this item for a future agenda.

3. ***The City cannot rely on the prior zoning code and conditional use permit process to satisfy the public participation requirements for Comprehensive Plan Amendments.***

Response: The City is following its public participation process within the GMHB August deadline. Most of the sustentative issues concerning compatibility (noise; air; screening; transportation; vehicular/pedestrian/bicycle safety; Comprehensive Plan; Zoning; with existing and future industrial uses) have been the subject of exhaustive written and oral testimony throughout the legislative processes and the Examiner's Conditional Use Permit. These issues, concerns, questions, facts and arguments are well articulated and thoroughly examined and re-entered into these proceedings.

4. ***The proposed Comprehensive amendments are internally inconsistent with the Comprehensive Plan.***

Response: The draft proposal fits within the existing Comprehensive Plan writing format guidelines/style, and articulates unambiguous intent to allow consideration of a County homeless encampment "through a process designed to impose reasonable compatibility measures." The adopted implementing zoning regulations are consistent by making an encampment a conditional use, subject to a Hearings Examiner Conditional Use Permit review process and establish review criteria and allow imposition of conditions.

The Hearings Board previously found consistency of the permanent homeless encampment ordinance with Comprehensive Plan policies LU 18.1, 18.3 and 18.6. Given that the ordinance is already consistent with those policies and also given the proposed amendments will be consistent with the ordinance (i.e. the regulations implement the plan), then it is staff position that the policies are consistent with each other. They are consistent with each other, because they allow the permanent homeless encampment ordinance.

Contrary the Burgess letter, the new language creating an exception in LU 8.4 means that the supportive prong of that policy does not need apply. Nonetheless, it is staff's professional opinion based on their experience with the temporary encampment is that the County operated homeless encampment could provide a uniquely supportive employment source for an industrial area. The encampment residents are located close to the employment source. Due to higher unemployment rates but greater flexibility, they would be willing in conditions that regular workers may not accept. This includes inclement weather, nighttime work, short-term work, and odd hours.

Staff also reviewed the comments raised by Burgess and others of potential noise, dust and truck traffic. It is staff's professional opinion based on their extensive experience with the temporary encampment ordinance and familiarity with the specific conditions of the Mottman industrial park is that the industrial park generates very little dust. The roads are paved and most are the lots are paved too. Sources of dust (and not just theoretical sources) are far away from the currently proposed site of the encampment. In addition, staff have monitored the day and nighttime conditions of the Mottman industrial park, especially at the proposed site, and find that traffic is low and that the industrial park is usually not noisy. The industrial park is relatively quiet at night most of the time. This is stark contrast to the some of the very loud locations that homeless are currently living, such as under bridges or next to the freeway. These locations are much louder, especially at night. In addition, the City of Olympia and Tumwater do not allow the use of compression breaks in the city boundaries. This is contrast to the freeway where compression breaks are allowed, creating a much louder traffic noise on the freeway, when they are used.

It is also important to note that County-owned land in the industrial area was not counted in the County's Buildable Lands Report. In other words, the land is not industrial for purposes of ensuring that there is sufficient industrial land. The recent Hearing Examiner decision has shown the City staff that all potential impacts raised by neighbors were addressed by the Hearing Examiner. The Hearing Examiner's decision demonstrated that the Hearing Examiner had the authority to condition the development to consider dust, noise, and traffic impacts if the record warranted it. It is staff's professional judgment that the Hearing Examiner adequately had the authority to mitigate and buffer impacts as presented in the record. In the words, the process worked well to address concerns. Most of the testimony focused, not on how the residents would impact the industrial park, but how the industrial park users could potentially impact the residents. However, industrial park workers are not generally wearing ear plugs and dust masks for a reason. The industrial park is not particularly noisy, not particularly dusty and not comparatively busy with traffic. Homeless residents are accustomed to much worse conditions.

5. ***The City did not coordinate with Tumwater to ensure consistency with Tumwater's Comprehensive Plan for the Mottman Industrial Park.***

Response: The City followed standard notification processes to Tumwater and received timely written responses from the City. This demonstrates that coordination occurred.

6. ***Proposed amendments allowing a residential use in an industrial zone without specified noise mitigation measures will limit industrial operations and create nuisance liability for industrial properties.***

Response: This issue was raised and addressed during the Zoning Code amendment process and more thoroughly during the Conditional Use permit request. Expert reports and testimony have been submitted and during the Conditional Use permit review processes. In summary, the encampment residents could be affected by the industrial uses (noise, hours of operation, etc.) and, except for screened visual impacts, the industrial uses will likely not be affected by persons residing in the encampment. The proposed code amendment does not alter any

existing prohibitions or protections on current or future industrial uses or alter enforcement of existing rules and regulations. In other words, having the encampment does not change the rules or regulations for current or future industrial owners. It only expands upon the list of existing conditional uses. Provisions for and enforcement of noise, odor, light, glare and other emissions or hours of operations are not altered. Under the implementing regulations, the Hearing Examiner has the authority to mitigate noise, dust and other impacts based on the record before Hearing Examiner.

7. *Proposed amendments fail to consider or mitigate for pedestrian and bicycle safety in an industrial zone.*

Response: This issue was initially raised and addressed during the Zoning Code amendment process and fully addressed in the Conditional Use permit review process. There are expert reports and testimony addressing the issue in the public records. Under the implementing regulations, the Hearing Examiner has the authority to mitigate noise, dust and other impacts based on the record before Hearing Examiner.

8. *By their nature, Homeless Encampments serve a regional need and should be treated as an Essential Public Facility. The City should amend codes accordingly.*

Response: Olympia's zoning codes currently provide for "public facilities as a permitted use" and separate provisions for "essential public facilities" as a conditional use. Each has review criteria that do not address homeless encampments. The primary difference between "essential" and other public facilities is the degree of impact the project has on surrounding uses and the requirement that the applicant follow additional public process prior to submitting a land use application to the City.

Olympia's Comprehensive Plan has provisions for Essential Public Facilities. LU7.2(1) contains a provision which states: "In order to enable the City or County, as applicable, to determine the project's classification, the applicant shall identify the approximate area within which the proposed project could potentially have adverse impacts, such as increased traffic, public safety risks, noise, glare, or emissions." The County selected a County-owned location that followed a previous "Essential Public Facilities Process" for siting a jail and approached the City of Olympia.

Based upon city staff experience with the temporary homeless encampments in a variety of locations throughout town, it was evident that the surrounding uses often have more of an impact on the encampment than the encampment has on the surrounding uses. Therefore, instead of a staff interpretation that that would result in a permitted "public facility use" or "conditional use - essential public facility" absent applicable review criteria, the most direct and transparent process was to call it a "Permanent County Homeless Encampment," craft review criteria and employ the same conditional use permit process.

9. *The proposal is not consistent with County-wide Planning policies.*

Response: Staff does not believe the proposed Comprehensive Plan amendment (zoning regulations or the County Permanent Homeless Encampment) is inconsistent with the Countywide planning policy. The 1992 Thurston Countywide Planning Policy was one of the guiding local policies that led to adoption of statewide regulations in 1996/7 now described as Essential Public Facilities. As stated, the intent was: "To provide a rational and fair process for siting public facilities that every community needs, but which have impacts that make them difficult to site. . ." Because this state has no known history of permanent homeless encampments, there is a lack of clarity in the state law about whether such a use could be deemed "essential" when it has never really been conducted before. It may be difficult to prove that such a facility without any prior history of being used here or elsewhere in the state

is essential. The lack of clarity around this issue means that the making such a declaration could embroil the encampment ordinance in an even greater litigation.