TOWN OF EATONVILLE
PLANNING COMMISSION AGENDA
Monday, November 3rd, 2014 – 7:00 P.M.
COMMUNITY CENTER
305 CENTER STREET WEST

Call to Order

Roll Call: Beach ___ Bertoia ___ Craig ___ Justice ___ Lambert ___ Miller _____

Town Staff Present: Mayor Schaub, Kerri Murphy and Doug Beagle

Pledge of Allegiance

Approval of the Agenda:

Approval of Minutes: October 6th, 2014

Communications and Announcements:

From Public:

From Commissioners:

Public Hearing Review of the Ordinance 2013-15 Interim Recreational Marijuana Regulations

Public Comments:

Staff Comments:

Commissioner Comments:

Next Meeting: TBD.

Town of Eatonville
PLANNING COMMISSION MEETING
Monday, October 6th, 2014
COMMUNITY CENTER
305 CENTER STREET WEST

CALL TO ORDER

Chairman Lambert called the meeting to order at 7:00 PM.

ROLL CALL

Present: **Commissioners** Beach, Bertoia, Craig, Justice and Miller were present.

STAFF PRESENT: Mayor Schaub and Doug Beagle.

OPENING CEREMONIES

Commissioner Beach led the Pledge of Allegiance.

APPROVAL OF AGENDA

Commissioner Beach move to approve the agenda. **Commissioner Justice** seconded. All in favor. (AIF)

Commissioner Beach motion to add the discussion of "Junk Cars" under Old Business. AIF.

APPROVAL OF MINUTES

Minutes of the August 4th, 2014. **Commissioner Beach** move to approve with corrections. **Commissioner Justice** seconded. AIF

COMMUNICATIONS OR ANNOUCEMENTS

There were no comments from the citizens or commissioners.

OLD BUSINESS

Emc 19.04 – Design Standards and Guidelines Review

Town Administrator – Doug Beagle explained that the town had proposed some changes and or corrections to the Design Guidelines and Standards. There were instances where the Design Guidelines were outside of the existing conditions for the citizens and/or contractors applying for a building permit. Examples and suggestions were provided in the packet. The town needs the flexibility to attract other builders to town. It was discussed that individual lots would be allowed some scrutiny.

Chairman Lambert confirmed that at this time the town would like to keep the code Chapter 19.04 as it stands for plats but not necessarily for existing single family lots outside of a plat.

Mr. Beagle said "current plats". If a developer was to come to us and want to build houses with three car garages, we want to be able to have that flexibility.

Commissioner Beach asked if it is necessary to have a driveway that accommodates a three car garage.

Mayor Schaub said that if you look at the setbacks, you have twenty-five feet off the road you do not really have a turning radius.

Commissioner Beach said in principal he objects to the three car garages. If you are going to allow a three car garage, maybe they could have an additional requirement put on this requiring that they have a permeable surface there. At least the water would get through. He suggested the entire driveway be permeable.

Mr. Beagle stated that with the soils in this town, there are certain areas where you can get away with permeable surface without any issues at all and then there are soils with a lot of clay. This would create a wetland beneath your driveway surface.

Commissioner Beach confirmed that this change would apply to single family and to new plats. His concern is how far the flexibility goes. He has no opposition to flexibility, but where is the boundary to flexibility?
Mr. Beagle One is to put it in the code in black and white and have no gray areas at all. The other would be to have some boundaries of the flexibility. He added that he was not asking for a decision today. We will keep talking about this until we come to some kind of agreement.
Commissioner Beach agreed that the Design Standards does need to have some flexibility. He did ask that anytime where a decision was made to waive a requirement, that the Planning Commission be informed and simply forward to the planning commission the reason why. Place this under "Communications" at the beginning of the agenda. This will give the Commissioners an idea of what is being granted and possibly an explanation of what was done. This will give us a record. How do we know how you are going to use this flexibility?
Mr. Beagle said that their interpretation of "flexibility" could certainly be different that the commissions. Part of the exercise tonight is to provide a solution. He will prepare some language that talk about these issues so that there is also a process that comes back to the planning commission for delineation outside of that flexibility.
Chairman Lambert asked what the width of the lot is where they are proposing to put three car garages.
Mayor Schaub that they vary with the home design. He added that as he read through the Design Guidelines, he felt that there were issues where they are way too restrictive.
Chairman Lambert stated that he felt that these Design Standards were for the high density development.
Mayor Schaub agreed that this was something like Mashell Meadows with a high density of homes.
Commissioner Miller said that he would not have a problem with wider driveways. These cookie cutter lots are very undesirable. It may bring in more tax revenue for the town, but it is not a place I would care to live. As for the porous concrete, they grow green mold and he is not necessarily for that. He stated "we pay Mr. Beagle to make these decisions, and he personally would like to give him the flexibility ". He would vote on the ordinance that next time it is presented to give more flexibility. All of the high end homes are going to have a three car garage and the third spot will be for a boat or something like that.
Mayor Schaub said that we have gone away from the text book style of the way we have been doing things.
Chairman Lambert said that we need a process that is going to work for the future not only for now. Anyone looking through the code needs to be able to know exactly what they need to do.
Commissioner Beach added that what the planning commission needs is rules for deviation. Under what kinds of conditions do you have the authority to deviate. There is a rule, and if it fits within that rule you can do it. What he is concerned about is the fact of creating precedence. There needs to be precedent that is defensible to any neutral party. That is what makes this difficult.
Mayor Schaub agreed with Commissioner Beach. That is one thing that he would like for the staff is for them to be able to know, to follow, how to answer and know that there wouldn't be a deviation. It is more important to have consistency. It is a difficult task, because every lot could be different. The driveway would probably be a constant issue. It may be better to have a standard size for a two car to a three car garage as a maximum that you could have. The lot size has something to do with it too. There are a lot of factors that go into .....(not audible)
Commissioner Beach said if the neighbor who came in second was not able to do something you have to be able to explain and backup why there was a deviation from the code.
Mr. Beagle said that there would be language provided.....(not audible)

EMC 8.09 Junk Vehicles Code Review.

Doug Beagle – Town Administrator gave a brief summary addressing the EMC 8.09. This ties into the nuisance code as well. The issue is that the junk vehicle must tie into three of the five criteria in order for the town to send a letter stating that they are in violation. The current code does not have enough strength in the nuisance or the junk vehicles nuisance. We fall short on the language that we need to have in there. The town has reached out to Bonney Lake who does our court and they provided us with their nuisance language. Our town attorneys reviewed that language and are in the process of providing us with recommendations. The pitfall is that we identify a nuisance, we send them a letter, there is a rigid code compliance steps that has to be taken. Our staff is not trained on those steps yet and this is part of what our attorney is going to provide is that guidance. There are numerous steps, and if we miss any of those steps, we can't adhere them to the code because we failed to follow the code. Regarding staff, who is going to do that? We do not have code enforcement, you are probably looking at the bulk of the code enforcement right now. He drives around, sees a nuisance, a letter is sent and the owner doesn't do anything. We just do not have the man hours that it takes to enforce it. We are not prepared. We are working on the other side of this and once we have code revisions, which will be presented to you for your review. The real issue is that we do not have the staff.

NEW BUSINESS

Ordinance 2014-3 Marijuana Regulations
2013-15 Sale of Retail Marijuana

Doug Beagle explained that in the packet was a memorandum from the town attorney. The map was not provided in the packet. The first order of business was to identify a thousand foot radius from our schools and churches as they pertain to the law. Everything in the dark area hashed area is the thousand foot radius from those facilities. This leaves the commercial and industrial area. Commercial area (C-2) located by Orville Rd. and the industrial area located outside the town limits but within our UGA. Once the map was identified, we put it into ordinances for regulations with the intent of adopting them. A step was missed and that step was to initially bring it to planning commission. We had to go back to council and get them to extend it for six (6) months so that Doug Beagle could present the information and present it to the planning commission. There are some requirements that have to happen from the planning commission. There will need to be a public hearing and receive public comment. The absolute last date that we could have a public hearing would be November 3rd, 2014 planning commission meeting, but there is an opportunity at the October 20th 2014 meeting. A lot of other jurisdictions have a moratorium on this issue because they have taken a wait and see approach. We took a different approach on the advice of our insurance carrier as well as our attorney; we thought that adopting regulations and following the law was in our better interest. After the public hearing the planning commission would make one of three recommendations which is outlined in the letter and inserted below:

- **Adopt as permanent regulations in their current form;**
- **Adopted with amendments; or**
- **Allow to expire.**

If it is allowed to expire the council will put a moratorium on it and it will expire in six (6) months. Currently there is a law suit with the City of Fife and everyone seems to be waiting for the result of the law suit to decide what they are going to do. That is one of the issues that we thought of being problematic, that's why we adopted here a regulation.
Chairman Lambert asked what the notice period is for public hearings.
Mr. Beagle said with the planning commission it's seven (7) days, ten (10) days in better. But you still meet the intent with the seven (7) days.
Chairman Lambert or Mayor Schaub ...not audible.
Commissioner Miller said that one of the state regulations is if their a marijuana distributor or a marijuana grower, that is the only business they can have. This wouldn't be a matter of the Pawn Shop putting their building aside and turning all their ....(not audible) it's just one business on that piece of property. It could be retail, growth or processing marijuana, whatever they choose, but it's not going to be building a strip mall where that pawn shop is or anything like that.
Mr. Beagle said no. They certainly could apply for one, but again they would have to get approval from the state for that license. Then they would look to us for zoning and if it met the requirement. In this case it would for the one you are referring to.
Commissioner Miller did agree that if you are going to have it, that would be the best area to pick other than the speed limit is fifty (50) mph.
Mr. Beagle said that when the town first looked at this, when we started getting some interest of people wanting to come to town to open up a (marijuana) business and they were picking spots, it was clear that they weren't even measuring one-thousand (1,000) feet. It was clear that we had to create a map and the town is fortunate that it is out away from the residential.
Commissioner Miller said that other than the fifty (50) mph and possible left turns across that highway, if you are going to do it that would be a good area.
Commissioner Craig asked about the location of the liquor store. They are within a thousand (1,000) feet aren't they?

Mr. Beagle – Answered "correct". There are some rules and regulations on existing businesses and the liquor store is right in the middle of our town. The focus was marijuana. There really isn't anything that we can do as far as the liquor store is concerned. It is a state issued license. It might be different if it was a new application.
Commissioner Beach asked how many people we might expect for the public hearing. Asking how many attended the council meeting.
Mr. Beagle confirmed 6 or 8 in attendance.
Commissioner Beach suggested having the town attorney in attendance for the public hearing to lay out the parameters.
Mr. Beagle explained that we have had our attorney here before and they are no different than we are. He can only sit here and listen.
Commissioner Beach asked what the implications would be of not doing this.
Mr. Beagle said we'll see the benefit after the public hearing for the commissioners to ask the attorney questions that pertain to the decision. He thought that they would make some of their associates available.
Chairman Lambert suggested having the public hearing on October 20th, 2014.
Commissioner Beach announced he would not be available for the October 20th Public Hearing.
Commissioner Miller didn't feel that the town needed to go to the expense of having an attorney present.
Mr. Beagle told commissioners to email him any questions they might have and make sure you include everybody in the email.
Chairman Lambert asked for a motion to hold a public hearing for October 20th, 2014.
Commissioner Justice motioned to hold the meeting October 20th, 2014. **Commissioner Bertoia** seconded. Motion carried.
Chairman Lambert asked for a copy of the revised Title 18.
Commissioner Beach asked if under Ordinance 2013-15, under the third "Whereas" he assumes this is more or less the quotations, regulations of the State Liquor Control Board. One of the conditions is to "limit the average inventory on the licensed premises at any time". He said that this statement makes no sense; you have to know what the average…it's got to be above the average for there to be an average. He wanted to know exactly what the liquor board said.
Mr. Beagle said he would check on it.
Commissioner Miller said that you may end up with someone that wants to grow in there. In his line of work he has had a lot of experience serving those people and they are excellent customers. Some of their bills are as high as $ 35,000.00. It is a real business. It will bring a tremendous amount of revenue to the town in just electricity alone. This is definitely something to consider.
Commissioner Craig agreed with Commissioner Miller. Confirming it's a huge industry and a green industry. He feels the town should look at it very seriously.
Commissioner Bertoia said that back in March citizens were saying it was time to increase the revenue and do what's best for this town. It's a great industry and very profitable. He suggested the town make every effort to promote this business.

CITIZENS COMMENTS: None

COMMISSIONER COMMENTS:

Commissioner Bertoia stated that he spoke to Mr. Beagle about the crosswalks in town. There are a lot of streets with faded out cross walks. The one across from Arrow Lumber off Madison. He would like to have a meeting where there is open discussion with Mayor Schaub, Mr. Beagle and this commission about the sidewalks in the town. This is a liability for the town.

Mr. Beagle said that both of the bridges are installed over the Mashell and the Little Mashell rivers. They have decking on the Mashell and adding the handrail and decking on the Little Mashell over the next couple of weeks. The project is moving along and is a huge asset already. You can't walk across it yet but you will be able to very soon. He suggested the town give him the paint, they will join forces (community) and get it done.

ADJOURNMENT
Chairman adjourned the meeting at 7:56 p.m.

Chairman Chris Lambert

Secretary David Craig

ATTEST:

Kerri Murphy, Recording Secretary

ORDINANCE 2013-15

AN ORDINANCE OF THE TOWN OF EATONVILLE, WASHINGTON, ADOPTING INTERIM REGULATIONS CONCERNING THE PRODUCTION, PROCESSING, AND RETAIL SALE OF RECREATIONAL MARIJUANA AND AMENDING TITLE 18 OF THE EATONVILLE MUNICIPAL CODE BY AMENDING CHAPTERS 18.02 "DEFINITIONS," 18.04 "DISTRICT REGULATIONS," AND ADDING A NEW CHAPTER 18.12 "RECREATIONAL MARIJUANA"

WHEREAS, in November of 2012, the Washington voters passed I-502, which directed the Washington State Liquor Control Board (LCB) to regulate recreational marijuana by licensing and taxing recreational marijuana producers, processors and retailers; and

WHEREAS, the regulatory scheme in I-502 required the LCB to adopt rules before December of 2013 to address: the methods for producing, processing and packaging of recreational marijuana; security requirements for retail outlets, retail outlet locations and hours of operation; labeling requirements; methods of transport of product throughout the state; taxing of marijuana-related activities; and the creation of a dedicated fund consisting of marijuana excise taxes, license fees, penalties and other income; and

WHEREAS, on September 4, 2013, the LCB issued proposed new regulations (the "Revised Proposed Rules"), which: prohibit the establishment of recreational marijuana businesses within 1,000 feet of certain identified sensitive uses; require criminal history background checks for licensees; establish qualifications for licensees; limit the amount of space available for recreational marijuana production; allow marijuana production to take place indoors in a fully enclosed, secure facility or outdoors enclosed by a physical barrier with an 8 foot high fence; limit the average inventory on the licensed premises at any time; limit the number of retailers within counties and cities within the counties based on estimated consumption and population data; establish insurance requirements for licensees; describe the security requirements, require employees to wear badges, and require alarm and surveillance systems on the licensed premises; require licensees track marijuana from seed to sale; establishes the manner in which free samples of marijuana may be provided; prohibit the sale of soil amendments, fertilizers and other crop production aids; identify transportation requirements, sign requirements, and recordkeeping requirements; identify a mechanism for enforcement of violations, including the failure to pay taxes; specify marijuana infused product serving sizes, maximum number of servings and limitations on transactions; identify marijuana waste disposal restrictions; describe the process for quality assurance testing, extraction and the requirements for packaging and labeling; describe advertising limitations; and explain the process for license suspension, revocation and penalties for violations; and

WHEREAS, according to the Revised Proposed Rules, the LCB will determine whether the recreational marijuana business licensee is within 1,000 feet of the sensitive uses identified in WAC 314-55-050(10) and shall not issue the license if it is within this area; and

WHEREAS, the LCB held a hearing on the Revised Proposed Rules on October 9, 2013 and intends to adopt Final Rules on November 18, 2013; accept license applications on November 18, 2013; and issue licenses beginning on December 1, 2013; and

WHEREAS, the short period of time between the LCB's adoption of Final Rules and the LCB's acceptance of license application leaves the Town insufficient time to adopt permanent regulations regarding the land use issues associated with the production, processing and retail sale of recreational marijuana within the Town of Eatonville; and

WHEREAS, the intent of adopting interim regulations is to provide sufficient time for the Town to evaluate the State's implementation of regulations pursuant to chapter 69.50 RCW and the siting and opening of marijuana businesses under I-502, as well as to provide basic guidance to prospective licensees; and

WHEREAS, pursuant to RCW 35.63.200, the Town Council held a properly noticed public hearing on November 25, 2013 to receive public comment regarding the proposed interim regulations concerning the production, processing, and retail sale of recreational marijuana; and

WHEREAS, after considering public comment, the Town Council considered this draft ordinance during its regular meetings on November 25, 2013 and December 9, 2013; and

WHEREAS, on December 9, 2013, the Town Council decided to adopt this ordinance; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF EATONVILLE AS FOLLOWS:

Section 1. The Town Council adopts all of the "Whereas" sections of this Ordinance as findings in support of this Ordinance.

Section 2. The Town Council adopts the Interim Amendments to Title 18 "Zoning" regarding recreational marijuana uses, as set forth in the attached Exhibit A.

Section 3. Title 18 of the Eatonville Municipal Code is hereby amended by amending Chapters 18.02 "Definitions," 18.04 "District Regulations," and by adding a new Chapter 18.12 "Recreational Marijuana," as set forth in the attached Exhibit A.

Section 4. The interim regulations concerning the production, processing, and retail sale of recreational marijuana, attached as Exhibit A, shall be in effect until June 9, 2014 unless earlier terminated.

Section 5. 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 preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 6. This ordinance shall take effect after publication of a summary, consisting of the title, pursuant to RCW 35.27.300.

1ST READING: 11/25/2013
2ND READING: 12/09/2013

PASSED by the Town Council of the Town of Eatonville and attested by the Clerk in authentication of such passage this 9th day of December 2013.

Ray Harper
Mayor

ATTEST:

Kathy Linnemeyer
Town Clerk

APPROVED AS TO FORM:

Gregory A. Jacoby
Town Attorney