

**AGENDA
PLANNING COMMISSION
REGULAR MEETING
April 27, 2023, 5:00 PM**

**COMMISSION ATTENDANCE IN PERSON
PUBLIC MAY ATTEND IN PERSON OR
REMOTELY VIA ZOOM**

Join Zoom Meeting

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Meeting ID: 819 0026 8241

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WRITTEN PUBLIC COMMENTS

If you wish to provide written public comments for the Planning Commission meeting, please email your comments to erodriguez@medical-lake.org by 2:00 p.m. the day of the commission meeting and include all the following information with your comments:

1. The Meeting Date
2. Your First and Last Name
3. If you are a Medical Lake resident
4. The Agenda Item(s) which you are speaking about

*Note – If providing written comments, the comments received will be acknowledged during the public meeting, but not read. All written comments received by 2:00 p.m. will be provided to the Planning Commission in advance of the meeting.

Questions or Need Assistance? Please contact City Hall at 509-565-5000

- 1) CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL**
 - a) Approval of or Additions to Agenda
 - b) Excused Absences
- 2) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS**
- 3) APPROVAL OF MINUTES**
 - a) March 23, 2023, Meeting minutes
- 4) STAFF REPORTS**
- 5) SCHEDULED ITEMS**
 - a) Education Packet for New Commission Members
 - b) Planning Commission Rules of Procedure
- 6) PUBLIC HEARING**
- 7) COMMISSION MEMBERS' COMMENTS OR CONCERNS**
- 8) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS**
- 9) CONCLUSION**

City of Medical Lake
124 S. Lefevre Street – City Council Chambers
Planning Commission Meeting and Public Hearing
March 23, 2023, Minutes

NOTE: This is not a verbatim transcript. Minutes contain only a summary of the discussion. A recording of the meeting is on file and available from City Hall.

1) CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

- a) Commissioner Hudson called the meeting to order at 5 pm, led the pledge of allegiance and conducted roll call. Commissioners were all present except for commissioner Mayulianos. She had notified commissioner Hudson that she was running late.
- b) Approval of or Additions to Agenda
 - i) Commissioner Hudson made a motion to move the Public Hearing right after the EWU presentation (section 5a), seconded by commissioner Jorgenson, carried 4-0.
 - ii) Motion to approve agenda as amended made by commissioner Munson, seconded by commissioner Jorgenson, carried 4-0.
- c) Excused Absences – Motion made by commissioner Hudson to temporarily excuse commissioner Mayulianos, seconded by commissioner Munson, carried 4-0.
 - i) Commissioner Mayulianos arrived at 5:10 pm.

2) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- a) Tammy Roberson Medical Lake resident – shared comments regarding the recent passing of the Critical Areas Ordinance (CAO) by City Council. See attached.

3) APPROVAL OF MINUTES

- a) **February 23, 2023**, Regular Meeting minutes
 - i) Motion to approve made by commissioner Jorgenson, seconded by commissioner Munson, carried 4-0.

4) STAFF REPORTS

- a) Sonny Weathers, City Administrator – gave an update on the Critical Areas Ordinance process. Addressed some of the comments/concerns brought forth by resident Tammy Roberson. See attached.
- b) Elisa Rodriguez, City Planner - shared with the commission that she will be attending a conference and will be unable to attend the April 27, 2023, meeting. Asked if the commission would like to move the meeting date or cancel. The commission decided to keep the meeting on the 27th and just conduct it without Mrs. Rodriguez.

5) SCHEDULED ITEMS

- a) EWU Planning Presentation – Master of Urban and Regional Planning (MURP) students gave a presentation on the Medical Lake Parks and Trails study they recently completed.
 - i) Questions and discussion held.

6) PUBLIC HEARING – Application LU 2022-004 TA, Proposal to amend MLMC Section 17.42.030 to allow shipping containers under certain circumstances.

- a) Commissioner Hudson called the public hearing to order at 5:47 pm.
- b) Appearance of Fairness doctrine discussion – Commissioners Mayulianos and Jorgenson have units at Monark Storage, the applicant’s business, but felt they could be objective.
- c) Staff Report – Elisa Rodriguez gave a presentation and staff report on the proposed amendment.
- d) Presentation by applicants’ representatives (Nolan Davis, Medical Lake Realtor and Brett Lucas, Senior Planner with the City of Cheney)
 - i) Questions and discussion from commission.
- e) Public Testimony –
 - (1) Darin Teichmer, owner of Tommy G’s – shared that he has a shipping container for storage at his place of business and never received a complaint. Stated he was unaware there was a problem with it and asked

for clarification on what the issue is. Mrs. Rodriguez explained why this issue has come forward; there was a complaint made about the shipping containers located at Monark storage, Medical Lake Code Enforcement went out to inspect that location and others around the city then sent letters to all property owners where containers were located. Mr. Teichmer reported that he never received a letter and he's had the container for two years and hopes to keep it.

- (2) Nolan Davis (Medical Lake Realtor) – shared personal thoughts on the topic in favor of the amendment.
- (3) Jennifer Speirs Medical Lake resident – shared comments and dissenting opinion on the proposed amendment.

- f) Commissioner Mayulianos commented that she agrees with Mrs. Speirs that businesses should check code first before bringing in containers. Stated that it creates a trust issue.
 - i) Nolan Davis offered a rebuttal to commissioner Mayulianos' statement.
- g) Commissioner Hudson closed the public comments at 6:21 pm.
- h) Commissioners discussed the options before them. Dissenting opinions were shared by commissioners Mayulianos, Jorgenson, and Munson. Clarification given that the Medical Lake School District does fall under city code requirements and is responsible for the shipping containers on their property.
- i) Motion made by commissioner Mark to recommend full denial of the proposal, seconded by commissioner Mayulianos, carried 5-0.

SECTION 5 SCHEDULED ITEMS CONTINUED

- b) Education Packet for New Commission Members - Motion to table until next meeting made by commissioner Hudson, seconded by commissioner Jorgenson, carried 5-0.
- c) Planning Commission Rules of Procedure - Motion to table until next meeting made by commissioner Hudson, seconded by commissioner Mark, carried 5-0.

7) COMMISSION MEMBERS' COMMENTS OR CONCERNS

- a) Commissioner Mayulianos apologized for being late. Asked legal counsel Sean King (present on Zoom) to address the two questions from the last meeting. Mr. King stated there is no statutory requirement for interested citizens to state their address. He also stated that if there is a conflict of interest, the best practice is to recuse yourself from a decision, rather than asking the other commissioners decide if you should participate. Mr. King had also responded with these answers to the City Administrator via email. See attached.
- b) Carl Munson submitted a memo regarding "Medical Lake Makeover" to add to the next meeting agenda. See attached.

8) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- a) Tammy Roberson Medical Lake resident – addressed Mr. Weathers' presentation on the CAO process from earlier in the meeting. Discussion was held. See attached.
- b) Motion to extend Ms. Roberson and additional 5 minutes of speaking time made by commissioner Mayulianos, seconded by commissioner Jorgenson, discussion held, commissioner Mayulianos amended her motion to give an additional 3 minutes, seconded by commissioner Munson, carried 5-0.

9) CONCLUSION

- a) Motion to conclude made by commissioner Munson, seconded by commissioner Mayulianos. Motion carried 5-0 and meeting concluded at 6:40 pm.

Date: _____

Roxanne Wright, Administrative Assistant

P | L | M | S
PHILLABAUM LEDLIN MATTHEWS & SHELDON PLLC

ATTORNEYS AT LAW
1235 N POST STREET, SUITE 100
SPOKANE, WASHINGTON 99201-2529
TELEPHONE (509) 838-6055 • FAX (509) 625-1909

STEPHEN R. MATTHEWS
ROBB E. GRANGROTH
BENJAMIN D. PHILLABAUM*
WINSTON R. MATTHEWS
DOUGLAS R. DICK*
TREVOR W. MATTHEWS

OF COUNSEL:
SHERYL S. PHILLABAUM
IAN LEDLIN
BRIAN G. HIPPERSON
D. ROGER REED
STEPHEN D. PHILLABAUM (Ret.)

March 21, 2023

*Admitted in Washington and Idaho

www.spokelaw.com

RE: UNRESOLVED PROBLEMS WITH THE 2023 REVISION TO THE MEDICAL
CRITICAL AREAS ORDINANCE

February 2, 2023

Dear Members of the City Council:

My name is Trevor Matthews, and I represent Tammy M. Roberson, a citizen of Medical Lake. I am, yet again, writing on her behalf about the City's ordinance updating the Medical Lake Critical Areas Ordinance ("CAO"). As you may recall, I sent comments on February 3, 2023 and February 17, 2023 making suggestions for amendments to the proposal. Ultimately, the Council—in a divided vote—approved the ordinance without amendment. Which, in Ms. Roberson's well-considered judgment, was a mistake.

In the days since the Council voted on the ordinance troubling facts have come to light. In Ms. Roberson's opinion, these facts call into question the text of the updated Critical Areas Ordinance, as well as the process that enshrined it into law.

The City Failed to Carefully Consider Salient Comments from State Agencies

The process of amending the ordinance began many months prior to the City voting to adopt the updated CAO. As part of that process, The City sent a draft version of the ordinance to state agencies for comment. Tricia Sears from the Washington State Department of Natural Resources was one such official who commented on the draft ordinance. On an email dated Friday, September 23, 2022 Ms. Sears wrote to City Planner Elisa Rodriguez:

In keeping with the interagency correspondence principles, I am providing you with draft comments on the City of Medical Lake's proposed update to its Comprehensive Plan (Commerce ID# 2022-S-4342). I looked at the entire proposal but did not do a detailed review of areas outside our purview. There is no language regarding geologically hazardous areas.

This means that the City had notice of a defect in the Critical Areas Ordinance nearly five months before the ordinance came up for a vote. I echoed these same concerns to the City on Ms. Roberson's behalf in my second letter in February. I suspect, but have not confirmed that other agencies made similar comments. I personally spoke with an official from the Department of Commerce who confirmed that the same problem exists in the updated CAO for aquifer recharge areas. The problem was not and has not been addressed or fixed.

City and State Law Require Protections for All Types of Critical Areas

State law explicitly requires Medical Lake to regulate critical areas under the growth Management Act. RCW 36.70A.170(1)(d) requires "each county and each city" to designate critical areas, which RCW 36.70A.030(6) defines as "(a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas." In turn, RCW 36.70A.060(2) explains, "[e]ach county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170."

The Medical Lake Comprehensive Plan acknowledges this duty. It states:

The State of Washington identifies five primary types of critical areas requiring consideration and protection including:

- o aquifer recharge areas
- o fish and wildlife habitat areas
- o frequently flooded areas
- o geologically hazardous areas
- o wetlands

[. . .] Medical Lake's location on the West Plains places it in a unique situation because of the multiple critical areas found within its city boundaries and influence area. The community's topography and surface waters increase public environmental awareness of these areas in the community. It is important to identify and recognize those critical areas so that they may be preserved and protected.

The City's Has Wrongfully Repealed Protections for Geologically Hazardous Areas

Lest the Council think that this problem is a mere oversight, I would like to devote a moment to explaining significance of the error. The problem is not that the City has failed to *update* a passage of the law. In passing the new Critical Areas Ordinance, the City has *repealed without replacing* critical areas protections that existed in the previous law. The present version of the CAO contains protections for Geologically Hazardous Areas at § 17.10.130. The new law removes §17.10.130 without adding another section on the subject. In addition, the previous version of the CAO fails to address aquifer recharge areas. The new CAO does not address them either.

The City's Failure to Address Agency and Citizen Comments Makes It Vulnerable to Appeal

Pursuant to RCW 36.70A.280 and .290, interested parties may file a petition for review to the Growth Management Hearings Board requesting an order finding that the City is not in compliance with the Growth Management Act. Because the City’s version of the Critical Areas ordinance is not in compliance with the law, an appeal is likely to succeed. The law contains potential sanctions for governmental bodies found to be in noncompliance with State law at RCW 36.70A.340.

The City’s Failure to Address Comments Calls the CAO Update Process into Question

In sum, the Growth Management Act clearly requires the City—as an agency engaged in comprehensive planning—to address five types of critical areas through local ordinances. The previous CAO addressed three of those types of areas, but the new CAO *repeals* protections for geologically hazardous areas. Worse yet, the City has been repeatedly warned of this problem since at least September of 2022. Despite this fact, City Administration failed to address these comments at any time. As a result, the City Council passed a CAO “update” which fails to address required subject matter and exposes to the City to a risk of appeals before the Growth Management Hearings Board and the potential sanctions that could ensue from such an appeal.

In Ms. Roberson’s view, these oversights paint a damning picture of the process that sent this version of the code to the Council for a vote. The City *knew or should have known* that the draft CAO update does not fulfill its obligations under the Growth Management Act. The City knew or should have known that the code was incomplete, but made no effort to correct errors that commenters raised on multiple occasions.

These facts suggest that City Administration failed to adequately consider and amend the ordinance before putting it before the Council for a vote. Council Members and Planning Commission members likely had frequent assurances that the draft CAO is well-written and carefully considered in light of Growth Management Act requirements. Experience is showing that any such reassurances were potentially misleading. For example, during debate on the ordinance, it is my understanding that the Mayor told council members that the CAO complied with the requirements of state law and covered all required subjects. Ms. Roberson believes that the Mayor knew or should have known that assertion was false because State agencies had submitted comments to the contrary. Ms. Roberson suspects the Council and Planning Commission were misled on other occasions as well.

The City Should Repeal the CAO Pending Further Update, including the Eight Amendments Proposed by Ms. Roberson.

It may be tempting to the Council and City Administration to rush and make corrections to the CAO to attempt to bring it into compliance with the law and conceal any deficiencies in the adoption process. This, in Ms. Roberson’s view, would be a grievous error. The City’s sloppy work in drafting the updated CAO and responding to comments on its text is precisely what has created the present debacle. The City would be better served to withdraw the law and take the time to make necessary corrections and amendments to it.

The interests of Medical Lake and its citizenry are better served by careful deliberate government than by a rush to hide errors. Ms. Roberson and other interested parties will no doubt have

comments on any proposed changes to the law. This would also give the City Council time to properly consider, debate and—hopefully, adopt—Ms. Roberson’s proposed amendments to the law. Ms. Roberson continues to believe that her proposed amendments are essential to protecting Medical Lake’s environmental resources and guarding against past mistakes made by the City in administering the CAO.

Ms. Roberson thanks the Council for their active attention to this important matter and encourages them to act quickly to protect the City’s environmental resources.

Sincerely,



Trevor Matthews
Phillabaum, Ledlin, Matthews & Sheldon, PLLC
Attorneys for Tammy M. Roberson

March 23, 2023 Planning Commission Meeting (1st Interested Citizens Comments)
(As Of: 23 Mar 2023)

Dear Planning Commissioners and City Officials,

I am here regarding Medical Lake's Critical Areas Ordinance (CAO) update process. I understand that the Commission will be taking up proposals to add additional sections (geologically hazardous and aquifer recharge areas) to the CAO as required by the Growth Management Act.

I believe the Commission has heard repeatedly from City Administration that the draft law they were provided was carefully drafted by expert(s) to meet all the requirements imposed by State Law. I image it is a surprise, then, that the CAO needs to be amended so soon after it was considered and passed by the Commission.

My goal today is to highlight the central problem that has plagued the CAO update process: Since this project began more than a year ago, City Administration has been eager to update the CAO quickly.

- 1) The problem with this approach is now becoming obvious that the City has failed to fully understand the Growth Management Act.
- 2) Failed to understand and seriously consider guidance from state agencies.
- 3) Has even ignored comments from State Officials warning the City that it has failed to meet the requirements of the Growth Management Act.

As a result, the CAO is back in front of you for more work before it has even become effective.

In my viewpoint, this fact should cause the Commissioners to question whether City Administration has spoken reliably about the CAO in other matters. I would argue that the answer to that question is "no".

City Administration has encouraged the Commission to ignore proposed amendments and push the updated CAO through without debate and functional amendments.

Granted, there have been minor amendments, but the City has resisted calls for more meaningful changes to the text. The result is clear. The City has not been reliable and there are significant problems with the CAO before it has even become effective.

Therefore, I am urging the Commission to reconsider its decision of not taking up but to approve all of my proposed amendments to the CAO. I believe the Commission has power to do this IAW RCW 35.63.120.

It is not too late for the Commission to consider and approve my proposed amendments to the CAO. Together, we can make a better law and help make a better future for Medical Lake.

Please be aware in order to help the Commissioners to better understand what has happened to the CAO, you all have received a copy of the letter my attorney recently sent to the City Council on my behalf. This letter helps to explain why the CAO is back in front of the Planning Commission even though we just went through an approval process. I highly encourage you to read it.

May God's grace be with all wetlands and the future of Medical Lake. With God, all things are possible.

Thank you for your attention and time.

Tammy M. Roberson, 424 W Brooks Rd

March 23, 2023 Planning Commission Meeting (2nd Interested Citizens Comments)
(As Of: 23 Mar 2023)

Dear Planning Commissioners and City Officials,

Questions for Mr. Weathers:

Please explain why the City Administration did not either call back or email DNR folks to ask questions if they did not understand DNR's general statement of "There is no language regarding geologically hazardous areas". (Answer: see 1st bullet of City Administration's presentation notes.)

Why wasn't this email given to PC? (Answer: again, see 1st bullet of City Administration's presentation notes.)

Now for some good news – The City of Medical Lake will have the pleasure of doing their periodic CAO update again in 2026 (a requirement for all Cities per the Dept of Commerce Policy Lead, Mr. Scott Kuhta). More fun times definitely coming soon...

Thank you for your attention and time.

Tammy M. Roberson
424 W Brooks Rd.

March 22, 2023

Dear Members of the Planning Commission,

I am writing you regarding the Medical Lake's Critical Areas Ordinance (CAO) update process. I understand that the Commission will be taking up proposals to add additional sections to the CAO as required by the Growth Management Act.

I believe the Commission has heard repeatedly from City Administration that the draft law they were provided was carefully drafted by expert(s) to meet all the requirements imposed by State Law. I imagine it is a surprise, then, that the CAO needs to be amended so soon after it was considered and passed by the Commission.

My goal in sending you this letter is to highlight the central problem that has plagued the CAO update process: Since this project began more than a year ago, City Administration has been eager to update the CAO quickly. The problem with this approach is now becoming obvious: 1) The City has failed to fully understand the Growth Management Act, 2) Failed to understand and seriously consider guidance from state agencies and 3) Has even ignored comments from State Officials warning the City that it has failed to meet the requirements of the Growth Management Act. As a result, the CAO is back in front of you for more work before it has even become effective.

In my view, this fact should cause the Commissioners to question whether City Administration has spoken reliably about the CAO in other matters. I would argue that the answer to that question is "no." City Administration has encouraged the Commission to ignore proposed amendments and push the updated CAO through without debate and substantive amendments. Granted, there have been minor amendments, but the City has resisted calls for more meaningful changes to the text. The result is clear. The City has not been reliable and there are significant problems with the CAO before it has even become effective.

Therefore, I am urging the Commission to reconsider its original decision and now take up and approve all of my proposed amendments to the CAO. They are laid out below. I believe the Commission has power to do this pursuant to RCW 35.63.120 which states:

Any ordinance or resolution adopting any such plan or regulations, or any part thereof, may be amended, supplemented or modified by subsequent ordinance or resolution. Proposed amendments, supplementations, or modifications shall first be heard by the commission and the decision shall be made and reported by the commission within ninety days of the time that the proposed amendments, supplementations, or modifications were made.

It is not too late for the Commission to consider and approve my proposed amendments to the CAO. Together, we can make a better law and help make a better future for Medical Lake.

To help the Planning Commissioners understand what has happened to the CAO, I have sent you a letter that my attorney recently sent to the City Council on my behalf. That letter helps explain why the CAO is back in front of the Planning Commission even though we just went through an approval process. I highly encourage you to read it.

Thank you for your time and attention to these matters.

Best,



Tammy M. Roberson

Proposed Amendments to the Medical Lake CAO

Amendment # 1: Reintroduce Building Setback Requirement Contained in Current CAO.

Insert section 17.10.090(F)(2)(j) with the following text:

“j. Building Setback. A minimum building setback of fifteen feet is required from the edge of a wetland buffer. This building setback from the buffer shall be identified on the site plan.”

Comment:

The presently effective version of the City Code, MLMC 17.10.140(E), contains this same requirement: “Building Setback. A minimum building setback of fifteen feet is required from the edge of a wetland buffer.”

The current draft of the updated law does not contain this provision. If the Code is approved as is, The new CAO will be *less protective of the environment than the previous version*. This is totally unacceptable. The new law should be equally protective, if not more protective, of our environmental resources.

Amendment # 2: Ensure a Complete Record of Decision Making.

Amend 17.10.040(A)(12) to read:

“12. Review. The planning official must provide a single written report stating the approval criteria for the permitting decisions, information considered, issues to be decided, findings, and a recommendation to the Planning Commission prior to the hearing. The report shall be a public record of the City of Medical Lake.”

Comment:

One of the problems revealed by the Park at Medical Lake is the danger of silent discretion. When a City Official can decide things without leaving a record behind, that can hamper, or even eliminate public oversight. The goal of this comment is to make it clear that City Officials have a duty to leave a written record of the information they receive and what choices they make about the application. These small changes ensure that the public can see inside the process and participate in oversight.

Amendment # 3: Leave a Record of Any Decision to Accept “Less Information.”

Amend 17.10.050(E) to read:

“E. *Critical Areas Report – Modifications to Requirements*. Modifications to Required Contents. The applicant may consult with the planning official prior to or during preparation of the Critical Areas Report to obtain City approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential impacts to any critical areas or buffers and the required mitigation. The planning official may also initiate a modification to the required report contents by requiring either additional or less information, when determined to be necessary to the review of the proposed

activity in accordance with this Chapter. Any time a planning official permits an applicant to submit less information in a critical areas report, the City Official must clearly indicate that fact in his or her report to the Planning Commission or City Council. The notation must be written and indicate:

1. What information was eliminated from the report;
2. Why the applicant was excused from providing the information; and,
3. A record of the information supplied by the applicant to justify the request to submit less information.”

Comment:

As described in the previous comments, silent discretion is dangerous and the law should be skeptical of it. This provision allows applicants to be excused from providing information that this Code otherwise requires them to provide. If such an exception is granted, the City must be required to clearly and openly state that fact and justify the decision. As written, the law allows a City Official to excuse an applicant from informational requirements and conceal that decision from the reviewing body. The public deserves to be sure it will know when this power is exercised.

Amendment # 4: Leave a Written Record of Delineation Decisions.

Alter 17.10.090(C) to Read:

“c. Delineation. Wetland delineations are valid for five years; after such date a qualified professional must determine and inform the City on the applicant’s behalf, in writing, whether a revision or additional assessment is necessary. Thereafter, the planning official may elect to require a new delineation, an update to the report, or accept the existing report. The report described in 17.10.040(A)(12) must state the planning official’s decision on this issue and the reasons therefor. “

Comment:

As with the previous amendments, this change is focused on leaving a record of decision behind so that citizens can have oversight of the full process.

Amendment # 5: Ensure that the City Has Sufficient Enforcement Authority.

Delete Section 17.10.120(D) and replace Section 17.10.120(A) with the following text:

- “1. General. No activity requiring a critical areas permit shall be conducted without full compliance with this Chapter. Those activities not specifically authorized are prohibited. When a wetland or its buffer has been altered in violation of this Chapter, all ongoing development work shall stop and the critical area(s) shall be restored. The City shall have the authority to issue a “stop-work” order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner’s or other responsible party’s expense to compensate for violation of this Chapter.

2. Inspections. The City or its authorized representative is authorized to make such inspections and take such actions as may be required to enforce the provisions of this Chapter.
3. Right of Entry.
 - a. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever the City or its authorized representative has reasonable cause to believe that there exists upon any premises any condition which violated the provisions of this Chapter, the City or its authorized representative may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon him/her by this Chapter, provided that:
 - i. If such premises are occupied, he/she shall first present proper credentials and demand entry; and
 - ii. If such premises are unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and demand entry. If such entry is refused, the City administrator or authorized representative shall have recourse to every remedy provided by law to secure entry.
 - b. No owner or occupant or any other person having charge, care or control of any premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry herein by the City Administrator or authorized representative for the purpose of inspection and examination pursuant to this Chapter. Any person violating this Subsection is guilty of a misdemeanor.
4. Violation.
 - a. Penalties for violations of this Section may be imposed administratively and appealed pursuant to Section 2.80.060(2) of this code.
 - b. Notice of penalties – If the City or its authorized representative finds that a violation of this Chapter exists, he/she shall cause to be served, either personally or by certified mail, with return receipt requested, upon all persons having any interest in the property where the violative condition exists, as shown upon the records of the Spokane County Auditor's Office, and shall post in a conspicuous place on such property, a complaint stating the specifics of the violation. If the whereabouts of such persons are unknown and the same cannot be ascertained by the City or its representative in the exercise of reasonable diligence, and the City makes an affidavit to that effect, then the serving of such notice or order upon such persons may be made by publishing the same once each week for two consecutive weeks in a legal newspaper of general circulation in the City. Such complaint shall contain a notice that the violator may request a hearing before the hearing examiner within 21 days of mailing, service or

publication of the notice. All parties in interest shall be given the right to file an answer to the notice, and to appear in person, or otherwise, and to give testimony at the time of a hearing before the hearing examiner. Penalties shall become final if the time for appeal expires without action by the violator. All costs, fees and expenses in connection with enforcement of such actions may be recovered as damages against the violator.

5. Remedies Available. In the event of violation, the City or its hearing examiner shall have the authority to levy fines, order restoration, rehabilitation or creation of measures to compensate for the destroyed or degraded critical area(s). If work is not completed in a reasonable time following the order, the City may, to the extent of monies available through bonds and/or fines, implement a process to restore the affected site or create new wetlands to offset loss as a result of violation in accordance with this Code. The violator shall be liable for the cost of such action.
6. Violation—Misdemeanor. Any person, firm or corporation who violates any provisions of this Chapter or who fails, refuses or neglects to comply with the terms of a final order issued under this Section within the time provided in such final order, is guilty of a misdemeanor.”

Comment:

A law is only as strong as its enforcement provisions. Without enforcement powers, there is no law because there is no deterrent to violation. The presently effective version of the City Code, contains relatively robust, if flawed, enforcement provisions. It allows the City to stop work, levy fines and order restoration of critical areas. **By contrast, the proposed CAO is short on detail and gives the City less enforcement authority.** This proposed amendment attempts to adapt those provisions to make clear that the City has direct authority to enforce the CAO against violators. The previous enforcement provisions were somewhat cumbersome, always requiring a public hearing before any enforcement could be implemented. This revision of those provisions allows the City to act more quickly by imposing penalties administratively, but protects the rights of landowners by allowing immediate appeal of administrative enforcement to the hearing examiner.

Amendment # 6: Ensure Experts Determine Wetland Boundaries.

Amend Section 17.10.020(G) to read:

“Interpretation of Critical Area Boundaries. Determining the exact location of the boundary occurs only through a delineation process performed during the site investigation associated with the development. The planning official shall be authorized to reject, but not replace, a qualified professional’s proposed location of the mapped critical area boundary. Final designations must be based on the best available science, site conditions and other available data or information.”

Comment:

City officials should have oversight duties, but not final authority to declare the extent of a wetland boundary. Because City officials are not experts, they are not qualified to interpose their judgment for that of a qualified professional submitting a report.

Amendment # 7: Make it Clear that Buffer Averaging Must Improve Wetland Protection.

Amend 17.10.020(F)(2)(h) to include clause v. which reads:

“v. buffer averaging will result in an improvement to overall wetland protection.”

Comment:

This recommendation comes directly from guidance published by the Department of Ecology. It is contained in WETLAND GUIDANCE FOR CAO UPDATES, EASTERN WASHINGTON VERSION, 2016 at page 31. **Including this provision is valuable because buffer averaging is not intended to be a loophole to make projects easier.** It is designed to allow development while increasing wetland functions for the benefit of the City and its citizens.

Amendment # 8: Allow Front Yard Size to Decrease to Facilitate Buffer Size.

Amend 17.10.090(F)(2) to include a new subparagraph “j.” which reads:

“j. In order to accommodate for the required buffer zone, the City may reduce the front yard setback requirements on individual lots on a case-by-case basis. The front or rear yard shall not be reduced by more than fifty percent.”

Comment:

This provision is in the original Code but has been excluded from the new draft. The provision is good because it allows buildings to be located closer to the front of a property to allow for a larger buffer. **This provision makes it easier to protect wetlands while still allowing for development. This provision is likely to reduce the risk of takings lawsuits from landowners.**

Critical Areas Ordinance Update

RE: Unresolved problems with the 2023 revision to the Medical Lake Critical Areas Ordinance:

- On 9/23/2022 WA State DNR stated, "There is no language regarding geologically hazardous areas." This comment does not share any reference or requirement to add language and was included in materials provided for the Public Hearing held by City Council on 2/7/2023. Many counties and municipalities do not include code language related to critical areas that do not pertain within their jurisdictions.
- The 12/15/2022 Planning Commission meeting discussed and deliberated on 9 proposed changes to the CAO. Motions were brought to the floor regarding 4 of the 9 items, and 2 of the motions passed unanimously while the other two were defeated 2-3. The Planning Commission then voted unanimously to recommend approval of the CAO to City Council.
- On 1/21/2023 Councilmember Pritchard expressed a desire to include language pertaining to Critical Aquifer Recharge Areas and Geologically Hazardous Areas. Since then, city staff have been at work to better understand and define if and where these areas exist in order to know how to effectively regulate development related to such areas.
- City Council held a Public Hearing on 2/7/2023. Public comment and written comments were received and considered. As a result of those comments, City Council tabled the first read until the 2/21 meeting.
- At the 3/7 City Council meeting, the second read of the CAO took place and the ordinance was passed with a 4-2 vote.
- City staff are continuing our work with Commerce, Ecology, and DNR to clearly define if and where Critical Aquifer Recharge Areas and Geologically Hazardous Areas exist within our municipal boundaries. We have been made aware of grants and resources available to help us study and map these areas more definitively, and you can expect to see resulting language brought before the Planning Commission for consideration in the near future.
- State agencies were expressly asked if we should halt publication of the recently adopted CAO and they said that is unnecessary since we are actively pursuing added language.

From: Sean King
Sent: Wednesday, March 22, 2023 9:13 PM
To: Sonny Weathers <SWeathers@medical-lake.org>
Subject: 3/23 Planning Commission Meeting

Hi Sonny,

I am going to have to attend the PC meeting tomorrow night via Zoom. I have a deposition late tomorrow afternoon that's going to prevent me from leaving for City Hall in time to make the 5 pm meeting.

I do have answers to the questions posed at the meeting last month.

First, there is no statutory requirement in the Open Public Meetings Act that interested citizens making comments have to provide their home address in order to speak. Sean Boutz said Liberty Lake recently made this transition in that they only ask general public speakers to identify if they are residents of the City or not. That procedural amendment is completely fine if the PC desires to make it, and the CC can as well if they so desire. Clearly, some speakers the other night had already enacted this change by simply stating they were residents of the City.

Second, Commissioner Mayulianos had a question about how conflicts of interest should be handled in the event one of the commissioners reports to the PC a perceived or real conflict with something the PC is grappling with. While there would never be a vote on a reported conflict by another commissioner, it's probably best practice for the commissioner to recuse and/or abstain from any voting or discussion on a topic causing the conflict of interest at the same meeting the commissioner reports the conflict. That way, instead of waiting till the next meeting after notice of a conflict is provided, it prevents any issues from cropping up in the month-long break between meetings. This seems apparent in the context of a CC meeting, but it can't hurt to apply to and educate the PC while they are making so many changes to their procedural rules.

Let me know if you have any questions. Thanks Sonny.

Sean M. King | Attorney
Evans, Craven & Lackie, P.S.
818 W. Riverside Ave., Suite 250
Spokane, Washington 99201
P: [\(509\) 455-5200](tel:(509)455-5200) | F: [\(509\) 455-3632](tel:(509)455-3632) | E: sking@ecl-law.com

To: Medical Lake Planning Commissioners

From: Commissioner Carl Munson

Date: March 23, 2023

Re: Medical Lake Makeover

Ref.: *13 ways to Kill Your Community* by Doug Griffiths

Medical Lake has three picturesque buildings: the Hallett home, the Community Church, and the primary Lakeland Village building, the latter obviously less than visible. All were built quite a while ago. Stanley Hallett believed others would follow suit when he built his three-story brick home in 1890. No one has followed suit; quite the opposite. Too many Medical Lake buildings, residential and commercial, newer and older, range from unremarkable to sad.

In proximity to six lakes and a substantial number of ponds, the city of Medical Lake should have design standards reflecting a level of community pride complementing surrounding natural beauty. In other words, high. I'm told, however, not only do we not have minimal design standards, we have no design standards. Driving around town, it's obvious.

To stimulate economic activity and enhance community pride, Medical Lake needs to create an impressive community image, brand, whatever we want to call it, with correlative conceptual design standards for new construction, and reasonable maintenance standards for existing buildings.

In *13 Ways to Kill Your Community*, Doug Griffiths introduces quite a few do's and don't's recommendations. Two germane, summary statements are:

“Attitude determines whether or not your community is going to be successful.”

“First impressions are truly the beginning of everything.”

I recently read a lengthy tourism article discussing the most attractive small towns, e.g., Kirkland, Bainbridge Island, Friday Harbor, in the state. The Planning Commissioners should have discussions leading to Medical Lake, in the future, automatically being included in similar articles.

I'm sure you all have solid ideas. Next meeting, let's consider a few.

Thanks,

Carl



CITY OF MEDICAL LAKE PLANNING COMMISSION

RULES OF PROCEDURE

Adopted by Resolution 499
November 17, 2015

[Proposed amendments introduced into record at 1/26/23 Planning Commission meeting](#)

[Proposed amendments introduced into record at 2/23/23 Planning Commission meeting](#)

Planning Commission Rules of Procedure

1. General Rules

- 1.1 Meetings to be Public:** All official meetings of the Commission shall be open to the public. The journal of proceedings shall be open to public inspection.
- 1.2 Quorum:** A majority of the appointed membership of the Commission shall constitute a quorum for the transaction of business. Any action taken by a majority of those present when those present constitute a quorum, at any regular or special meeting of the Commission, shall be deemed and taken as the action of the Commission.
- 1.3 Attendance, Excused Absences:**
Members of the Commission may be so excused by complying with this section. Members are required to attend in-person when at all possible, with exception to illness or travel. The member shall contact the City Administrator, Planning Director, or designee, or another serving Commissioner prior to the meeting and state the reason for his/her inability to attend the meeting. The contacted individual shall convey the message to the Chair. The Chair shall inform the Commission of the member's absence, state the reason for such absence, and inquire if there is a motion to excuse the members. For good cause, the Commission may excuse the absent member upon passage of such motion by a majority of Commission present, the absent member shall be considered excused and the Recorder will make an appropriate notation in the minutes. If the motion is not passed, the Recorder will note in the minutes that the absence is unexcused.
- 1.4 Journal of Proceedings:** A journal of all proceedings of the Commission shall be kept by the staff and shall be entered into an appropriate medium constituting the official record of the Commission.
- 1.5 Right of Floor:** Any member desiring to speak shall be recognized by the Chair and shall confine his/her remarks to one subject under consideration or to be considered.
- 1.6 Rules of Order:** Robert's Rules of Order Newly Revised shall be the guideline for the proceedings of the Commission. If there is a conflict, these rules shall apply.

2. Types of Meetings

- 2.1 Commission Meetings:** The Commission shall meet as needed on the ~~fourth~~^{final} Thursday of each month at ~~5~~⁶:00 p.m., additional meetings may also be scheduled when necessary. The Commission may reschedule meetings to a different date or time by motion. The location of the meetings shall be the Council Chambers at City Hall, unless specified otherwise by a majority vote of the Commission. All meetings shall be public.
- 2.2 Attendance of Media at Commission Meetings:** All official meetings of the Commission shall be open to the media, freely subject to recording by radio, television, and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.
- 2.3 Meeting Cancellation:** The City may cancel a regularly scheduled Commission meeting provided that Commission meets at least once per month for not less than nine months in each year, as provided by RCW 35.63.040.

3. Chair and Duties

- 3.1 Chair:** A Chair shall be elected by a majority of Commissioners and shall preside as Chair at all meetings of the Commission. A Vice-Chair shall also be elected by a majority of Commissioners and shall preside in the absence of the Chair. In the absence of both the Chair and Vice-Chair, the Planning Director or designee shall preside.
- 3.2 Call to Order:** The meetings of the Commission shall be called to order by the Chair or, in his/her absence, by the Vice-Chair. In the absence of both the Chair and Vice-Chair, the meeting shall be called to order by the Planning Director or designee for the election of a temporary Chair.
- 3.3 Preservation of Order:** The Chair shall preserve order and decorum; prevent attacks on personalities or the impugning of members' motives, and confine members in debate to the question under discussion.
- 3.4 Points of Order:** The Chair shall determine all points of order, subject to the right of any member to appeal to the Commission. If any appeal is taken, the question shall be "Shall the decision of the Chair be sustained?"
- 3.5 Questions to be Stated:** The Chair shall state all questions submitted for a vote and announce the result.

4. Orders of Business and Agenda

- 4.1 Order of Business:** The order of business for all regular meetings shall be transacted as follows unless the Commission, by a majority vote of the members present, suspends the rules and changes the order:
1. Call to Order, Pledge of Allegiance and Roll Call
 - A. ~~Additions to the Agenda~~
 - A. Excused Absences
 - ~~B.2. Additions to the Agenda~~
 - ~~2.3. Interested Citizens: Audience Requests and Comments~~ Approval of Minutes
 - ~~3.4. Approval of Minutes~~ Interested Citizen Comments
 - ~~4.5. Staff Reports~~ Scheduled Items
 - ~~5.6. Scheduled Items~~ Commission Members Comments or Concerns
 7. Public Workshops Adjournment
 8. Commission Members' Comments or Concerns
 9. Interested Citizens: Audience Requests and Comments
 10. Conclusion
 - ~~6. —~~
- 4.2 Commission Agenda:** Staff shall prepare the agenda for Commission meetings. Subject to the Commission's right to amend the agenda, no legislative item shall be voted upon which is not on the Commission agenda.
- 4.3 Commission Members Comments and Concerns:** The agenda shall provide a time when any Commissioner ("Commissioner Comments") may bring before the Commission any business that he/she feels should be deliberated upon by the Commission. These matters

need not be specifically listed on the agenda, but formal action on such matters may be deferred until a subsequent Commission meeting, except that immediate action may be taken upon a vote of a majority of all members of the Commission. There shall be no lectures, speeches, or grandstanding.

5. Consensus and Motions

5.1 Consensus Votes: When a formal motion is not required on a Commission action or opinion, a consensus voice vote will be taken. The Chair will state the action or opinion and each Commissioner will vote by saying “aye” or “nay”

~~8.1~~ ~~5.2~~—**Motions:** No motion shall be entertained or debated until duly seconded and announced by the Chair. The motion shall be recorded and, if desired by any Commissioner, the Recorder shall read it before it is debated and, by the consent of the Commission, may be withdrawn at any time before action is taken on the motion.

~~8.1~~ ~~5.3~~—**Votes on Motions:** Unless abstaining, each member present shall vote on all questions put to the Commission except on matters in which he/she has been disqualified for a conflict of interest or under the appearance of fairness doctrine. Such member shall disqualify himself/herself prior to any discussion of the matter. When disqualification of a member or members results or would result in the inability of the Commission at a subsequent meeting to act on a matter on which it is required by law to take action, any member who was absent or who had been disqualified under the appearance of fairness doctrine may subsequently participate, provided such member first shall have reviewed all materials and listened to all tapes of the proceedings in which the member did not participate.

5.4 Motions to Reconsider: A motion to reconsider must be made by a person who voted with the majority on the principal question and must be made at the same meeting unless the Planning Commission is in session and then the motion can be made on the next succeeding day within the session on which a business meeting is held.~~A motion to reconsider must be made by a person who voted with the majority on the principal question and must be made at the same or succeeding meeting.~~

6. Public Hearing Procedures

6.1 Speaker Sign-In: Prior to the start of a public hearing, the Chair may request that all persons wishing to be heard sign in, giving their name and whether they wish to speak as a proponent, opponent, or from a neutral position. Any person who fails to sign in shall not be permitted to speak until all those who signed in have given their testimony. The Chair, subject to the concurrence of a majority of the Commission, may establish time limits and otherwise control presentations. (Suggested time limit is three minutes per speaker or five minutes when presenting the official position of an organization or group.) The Chair may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, etc.).

6.2 Conflict of Interest/Appearance of Fairness: Prior to the start of a public hearing, any Commission member who has a conflict of interest, or an Appearance of Fairness Doctrine

concern, which could prohibit the Commission member from participating in the public hearing process shall step down. The Commission member who has stepped down shall not participate in the Commission decision nor vote on the matter. Nothing herein shall be interpreted to prohibit a Commission member from stepping down in order to participate in a hearing in which the Commission member has a direct financial or other personal interest.

6.3 The Public Hearing Process: The Chair introduces the agenda item, opens the public hearing, and announces the following Rules of Order:

(8) ~~(1)~~ ——— All comments by proponents, opponents, or other members of the public shall be made from the podium; any individuals making comments shall first give their name and address.

(2) No comments shall be made from any other location. Anyone making “out of order” comments shall be subject to removal from the meeting.

(3) There will be no demonstrations during or at the conclusion of anyone’s presentation.

(4) These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising his/her right of free speech.

* The Chair calls upon city staff to describe the matter under consideration.

* The Chair calls upon proponents, opponents, and all other individuals who wish to speak regarding the matter under consideration.

* The Chair inquires as to whether any Commission member has questions to ask the proponents, opponents, speakers, or staff. If any Commission member has questions, the appropriate individual will be recalled to the podium.

* The Chair continues the public hearing to a time specific or closes the public hearing.

7. Duties and Privileges of Citizens

7.1 Meeting Participation: Citizens are welcome at all Commission meetings and are encouraged to attend and participate prior to the deliberations of the Commission. Recognition of a speaker by the Chair is a prerequisite and necessary for an orderly and effective meeting, be the speaker a citizen, Commission member, or staff member. Further, it will be expected that all speakers will deliver their comments in a courteous and efficient manner and will speak only to the specific subject under consideration. Anyone making out-of-order comments or acting in an unruly manner shall be subject to removal from the meeting.

7.2 Under agenda item “Public Comments” citizens may address any City item they wish to discuss with the Commission. They shall first obtain recognition by the Chair, state their name, address if they are a resident of Medical Lake, and subject of their comments. The Chair shall then allow the comments, subject to a ~~three (3)~~five (5) minute limitation per speaker or other limitations as the Chair or Commission may deem necessary. A citizen wanting to provide an educational presentation shall be subject to a fifteen (15) minute limitation. Following such comments, if action is required or has been requested, the Chair may place the matter on the current agenda or a future agenda or refer the matter to staff or City Council for action or investigation and report at a future meeting.

Manner of Addressing the Commission – Time Limit: Each person addressing the Commission shall step up to the podium, give his/her name and address in an audible tone of voice for the record and, unless further time is granted by the Commission, shall limit his/her remarks to three (3) minutes. Agenda item “Public Comments” shall be limited to a total of thirty (30) minutes unless additional time or less time is agreed upon by the Commission (dependent upon the length of the Commission agenda). All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than the Chair, members of the Commission, and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Commission. No questions shall be asked of the Commission members or staff except through the Chair. The Commission will then determine the disposition of the issue (information only, place on present agenda, workshop, a future agenda, assign to staff, assign to Council, or do not consider).

7.3 Personal and Slanderous Remarks: Any person making personal, impertinent, or slanderous remarks or who shall become boisterous while addressing the Commission may be requested to leave the meeting and may be barred from further audience before the Commission during that Commission meeting by the Chair or Presiding Officer.

7.4 “Out of Order” Comments: Any person whose comments have been ruled out of order by the Chair shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from inappropriate, slanderous, or otherwise disruptive remarks after being ruled out of order by the Chair may subject the individual to removal from the meeting.

7.5 Written Communications: Interested parties, or their authorized representatives, may address the Commission by written communication in regard to any matter concerning the city’s business or over which the Commission had control at any time. The written communication may be submitted by direct mail, electronic mail by 2:00 p.m. on the day of the meeting or by addressing the communication to the staff who will distribute copies to the Commission members. The communication will be entered into the record without the necessity for reading as long as sufficient copies are distributed to members of the Commission.

These rules are intended to promote an orderly system of holding a public meeting and to give every person an opportunity to be heard.

8. Suspension and Amendment of These Rules

8.1 Suspension of These Rules: Any provision of these rules not governed by the city code may be temporarily suspended by a vote of a majority of the Commission.

8.2 Amendment of These Rules: These rules may be amended or new rules adopted by a majority vote of all members of the Commission, provided that the proposed amendments or new rules shall have been introduced into the record at a prior Commission meeting.

**Public Participation:
Tips for Talking with the Commission**

Public Comments

The following guidelines are intended to promote an orderly system of holding a public meeting and to give every person an opportunity to be heard.

- The Planning Commission welcomes participation in all public meetings. Arrangements for a sign language interpreter, hearing assistance, and other assistance can be made by calling the City at [509 565-5000](tel:5095655000)~~(360) 835-8501~~.
- When you feel strongly about a public issue or local concern, the Commission encourages you to share your information and thoughts with them. If you are unable to attend a meeting or would rather not give testimony at the meeting, you are encouraged to send/fax a letter or e-mail that would be made a part of the official record. Mail your letter to the Planning Commission c/o [Planning Department](mailto:city@medical-lake.org)~~Community Development Director~~ at [124 S Lefevre Street, Medical Lake](mailto:city@medical-lake.org)~~1701 C Street Washougal, WA 9902298671~~. The fax number is [509 565-5008](tel:5095655008)~~(360) 835-8808~~. E-mails may be sent to city@medical-lake.org~~mitch.kneipp@cityofwashougal.gov~~
- To speak during the Commission meeting under Public Comments you should sign up in advance. You will be asked to speak from the podium and to state your name, address, and topic for the record. You may speak on any City item and/or concern not scheduled for a public hearing.
- If you want to speak on the topic at a public hearing scheduled for that evening, you must comment during the public hearing portion of the meeting.
- When you speak with the Commission, step up to the podium and identify yourself by stating your name, address, and topic. Be sure to speak into the microphone clearly and address your comments to the Chair.
- During the Public Comment portion of the Commission meeting, your individual comments are limited to three [\(3\)](#) minutes and the total time for all public comments is limited to [thirty \(30\)](#) minutes. These are guidelines to help Commission members hear as many different viewpoints as possible in the limited time available. If you are speaking for a group, you must tell the Commission how the group developed the position you are presenting.
- If previous speakers have already made the comments you wish to make, feel free simply to identify yourself and indicate your agreement with what has already been said.

**Suggested Presentation Model for
Precise, Well Organized Proposals**

- Point.** What is the idea you wish to present? Begin with an “I statement” outlining your idea, such as, “I am here to (support/oppose)...”
- Reason.** Why you are making this point. This is an important step so the listener does not make assumptions about your motives.
- Example.** Brief and relevant example to clarify and make your point concrete.
- Summary.** What condition will be changed or improved if your point is adopted?
- Action.** (If appropriate, depending on the situation.) What needs to be done and who will do it.

Public Hearings

A public hearing offers you a formal opportunity to give your views to the Commission on the subject of the hearing.

- To give testimony, step up to the podium and identify yourself by stating your name and address for the record. When you talk to the Commission during a public hearing, Commission members, staff, and the audience will remain silent. After the last person has spoken, the hearing will be closed. The Commission will then discuss and will often make a decision on the issue.
- The audience may not comment during the Commission's deliberations unless a Commission member requests more information from a citizen.
- Again, you are also encouraged to submit your written communications on the subject to the Planning Commission care of the [Planning Department](#)~~Community Development Director~~ before the meeting so they can be included in the record and distributed to the Commission.