

STAFF REPORT

DATE: January 20, 2021

TO: Pierce County Planning Commission

FROM: Dan Cardwell, Supervisor, Long Range Planning

BY: Jessica M. Nappi, Senior Planner, Long Range Planning

SUBJECT: **2021 Comprehensive Plan – Community Plan Amendment:
Application No. 941882**

The Planning Commission will review and consider amendments to bring sign policies in the Key Peninsula Community Plan into consistency with the 2015 U.S. Supreme Court *Reed v. Town of Gilbert* ruling that prohibits regulations that categorize noncommercial signs based on the type of information they convey (e.g. temporary, political and ideological) and then apply different standards to each category.

Applicant: Pierce County Planning and Public Works

NOTICE: Notice of the Planning Commission public hearing was published in the News Tribune on December 23, 2020.

SEPA: SEPA will be conducted pursuant to the State Environmental Policy Act, Pierce County Code Title 18D, and provisions of the Growth Management Act.

GENERAL DESCRIPTION

The proposed amendments would modify the Key Peninsula Community Plan sign policies, which regulate noncommercial signs with reference to the sign's message, by revising said reference to no longer reference the sign's content.

In *Reed v. Town of Gilbert*, 576 U. S. 155 (2015), the U.S. Supreme Court ruled that a government may not regulate noncommercial signs based on their communicative content (i.e. the topic discussed or the idea or message expressed) unless the government can prove that such regulations are narrowly tailored to serve compelling governmental interests.

PROPOSED AMENDMENTS

Comprehensive Plan / Key Peninsula Community Plan

Community Character and Design Element / Design and Character Policies / Sign Design (page G-65)

GOAL KP D-10 Authorize signs that meet community established standards for size, location, and design.

KP D-10.4 Special considerations shall be made for community-oriented information signs.

KP D-10.4.1 Allow off-site community signs that identify for civic uses, including such as to provide information or directions related to boat ramps, shoreline access, bicycle routes, parks, and similar activities.

KP D-10.4.6 Allow the temporary installation of community and civic event noncommercial banners.

STAFF RECOMMENDATION

Staff supports the proposal as it would bring the identified policies in the community plan into conformance with the U.S. Supreme Court Reed vs. Town of Gilbert case.

IMPLEMENTATION REQUIREMENTS

Amendments to Title 18B *Development Regulations – Signs* may be necessary to revise the County’s content-based regulations that do not serve compelling governmental interests.

IMPACT ANALYSIS

Procedures for Amendments to the Comprehensive Plan, [PCC 19C.10](#), require that the merits of all amendments to the Plan be evaluated based on the following ([PCC 19C.10.060 A](#)):

- The effect upon the rate of growth, development, and conversion of land as envisioned in the Plan.
Not applicable.
- The effect upon the County's capacity to provide adequate public facilities.
Not applicable.
- The effect upon the rate of population and employment growth.
Not applicable.
- Whether Plan objectives are being met as specified or remain valid and desirable.
The proposal would meet Plan objectives, including:
 - Establish a system of sign controls that is uniform, balanced, and minimizes the number and size of signs while ensuring an opportunity for effective advertising (**GOAL D-16**).
 - Authorize signs that meet community established standards for size, location, and design (**GOAL KP D-10**).
- The effect upon general land values or housing costs.
Not applicable.

6. Whether capital improvements or expenditures, including transportation, are being made or completed as expected.

Not applicable.

7. Whether the initiated amendment conforms to the requirements of the GMA, is internally consistent with the Plan and is consistent with the Countywide Planning Policies for Pierce County.

The proposed amendment conforms to GMA requirements and is consistent with Countywide Planning Policies.

The proposal is internally consistent with the Pierce County Comprehensive Plan, including **GOAL D-16** and **GOAL KP D-10**.

8. The effect upon critical areas and natural resource lands.

Not applicable.

9. Consistency with locational criteria in the Comprehensive Plan and application requirements established by this Chapter.

Not applicable.

10. The effect upon other considerations as deemed necessary by the Department.

In *Reed v. Town of Gilbert*, 576 U. S. 155 (2015), the U.S. Supreme Court ruled that Gilbert's sign code had unconstitutionally restricted the right of free speech by allowing content-based sign regulations. The ruling deemed content-based regulations of speech are not allowed under the First Amendment to the United States Constitution. The ruling clarified that sign codes must be content neutral. This means that sign regulations cannot vary standards such as size, location, and duration based on the message of the sign (e.g. "political sign" or "for sale sign"). The more content neutral the sign code is, the less risk the jurisdiction has of being challenged. In light of this ruling, Pierce County is re-examining its sign policies and regulations for conformance.

At its December 16, 2020 meeting, the proposed amendments were presented to the Key Peninsula Advisory Commission (KPAC), and the KPAC approved the staff recommended proposed amendments.

Applicable RCWs/Policies

GROWTH MANAGEMENT ACT (GMA)

RCW 36.70A.070: The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

PIERCE COUNTY COMPREHENSIVE PLAN

Design and Character Element / Urban, Rural, and Resource / Signs (page 5-8)

GOAL D-16 Establish a system of sign controls that is uniform, balanced, and minimizes the number and size of signs while ensuring an opportunity for effective advertising.

Key Peninsula Community Plan / Sign Design (page G-66)

GOAL KP D-10 Authorize signs that meet community established standards for size, location, and design.