

# Proposed Design Review Code Amendment

## Commission Questions and Staff Responses Prepared by Todd Stamm, Principal Planner, for June 1, 2015 Planning Commission Meeting

Please provide examples of large-home design guidelines. As proposed, this expansion of design review would result in design review being required for nearly all commercial developments, but most single-family homes would still be exempt. Most cities follow this same pattern. Many cities, like Olympia, also have design requirements for single-family homes on small lots, but some cities such as Kennewick and Sumner require that nearly all housing comply with design guidelines. (Copies of these examples can be provided on request.) Although sometimes discussed, thus far staff has not identified any cities that specifically regulate large homes.

Is there a statutory requirement to bring the code into conformance with the Comprehensive Plan within a specified time? If so, what is that time? There is no specific time-period. Review bodies such as the Growth Hearings Boards have suggested that 'reasonable efforts' are required – thus Olympia is seeking to examine all major issues and establish priorities and a schedule by July 1, 2016, when a Growth Management Act compliance report is due.

Has the City done a review since 2004 of all design regulations for consistency and clarity? No, the code was reorganized and procedures were modified and some substantive requirements were clarified in 2004. Prior to that there had been focused updates, but no citywide extensive update of the substantive requirements has been done since the early 1990s when the City responded to a Washington Court appellate court decision that Issaquah's similar design guidelines were too subjective.

Are the proposed clarifying amendments currently being observed by the City in the design review process? Yes, these 'clarifications' reflect current interpretations and practices.

The recommendation of Option 2 on May 4 appears to suggest that the City has considerable latitude in implementation of Policy 6.1 of the Comprehensive Plan, i.e. it is not required to expand design review to the Port or to multifamily residential development. Please comment. Except for industrially-zoned areas, all of the Port is already subject to design review, as are all multi-family residential developments. Policy 6.1 reflects these and other current practices except for the recent addition of 'and public streets' following the mention of freeways. In the staff's opinion, that revision requires that the scope of design review relative to public streets should be reexamined, but the Commission does have broad discretion in making its recommendation regarding implementing measures.

The provision to focus design review on pre-1940 neighborhoods is both logically and syntactically confusing. Does this mean detached homes on smaller lots in older neighborhoods, or does it mean on detached homes on smaller lots and in older neighborhoods? What is the logic to expand design review to houses in pre-1940 neighborhoods? Why does Policy 6.1 provide for design review of these houses but, by implication, not provide for larger houses on larger lots in post-1940 neighborhoods? What, again, is the reason to direct design review to houses on smaller lot rather than more potentially impacting larger homes on larger lots? Policy 6.1 reflects a legislative decision made in the late 1990s when the design code was being revised. During that period there was extensive public discussion regarding to what extent the City should regulate the design of single-family detached housing. The result was that the City now regulates all forms of housing except homes on lots of 5,000 square feet and larger that are outside of 'older neighborhoods' as shown on a development code map. Those neighborhoods generally were developed prior to 1940 and are characterized by a grid pattern of streets and housing forms that were common prior to World War II, all of which led to the phrasing in Policy 6.1. This extent of design review was the result of a compromise among Councilmembers and although the staff can provide a reasonable purpose for such a distinction, the specific reasoning of each Councilmember would vary.

The staff briefing states that with the exception of commercial and mixed use projects along (all) public streets, the new policy reflects the current regulatory structure. (p. 10 of 5/18) This statement appears at odds with the provision in Policy 6.1 which clearly require expansion of design review to multifamily residential development and to detached homes on smaller lots. Please comment. The aspect of Policy 6.1 referencing design review of multifamily housing and homes on small lots does not expressly call for expanding that regulation. And since those housing forms are already subject to design review it's difficult to envision an expansion – except maybe enlarging the definition of 'small lots' to encompass lots larger than 5,000 square feet.

The staff briefing of 5/18 states that "commercial" would not include institutional such as schools and hospitals. (p. 11 of 5/18). Are churches (all structures for the purpose of religious activities) excluded? What is the logic for excluding schools and hospitals? As proposed, churches, schools and hospitals would all be exempt from this new design requirement. It has been the staff's experience that the City's basic commercial design requirements, which focus on street orientation and pedestrian access, are not well-suited to the functions and form of these types of land uses. The Olympia Regional Learning Center – which led to code amendments to relax these requirements in residential areas – is the latest example.

The Design Review Board recommended that Evergreen Park PUD should not be exempt from Design Review. (p. 11 of 5/18) However, the staff briefing of 5/18 references the staff briefing of 5/4 which includes the staff recommendation that the Evergreen Park PUD remain exempt from design review. (5/18, p. 11) Please explain the reasons behind these opposing recommendations. In response to property owner assertions that the PUD as approved did not include public design review and that the

PUD has developed well without that process, the City has consistently decided to exempt the Evergreen Park PUD from design review. The staff believes that practice should continue, the Design Review Board disagreed and recommended that there be no exceptions from the new 'all streets' requirements.

### **Re code clarifying amendments:**

#1 [What] would make (or does make) projects subject to design review subject to scenic vistas as identified on official maps. Do current "official maps" define such vistas or does this proposed amendment anticipate creation of such maps in the downtown strategy? The City does have an official scenic view map. Any project subject to design review that is within the viewsheds illustrated on the map is evaluated for consistency with the Olympia Municipal Code 18.110.060.

#6 This proposed amendment refers to the "size of each building" and not to total project floor area. Please explain. Large projects requiring a conditional use permit in residential areas are also subject to design review. This amendment would clarify that the 5,000 square foot standard for determining 'large' is based on whether any one building exceeds that size and not the total floor area of a land use. For example, this amendment would clarify that a 4,000 square foot church with a detached 2,000 square foot meeting hall is not to be subject to design review.

#7 This proposed amendment appears to exempt the Port from the City design review process. This appears to contradict the language in Policy 6.1 in the Comprehensive Plan. Please explain. This amendment is not intended to exempt the Port, rather it intended to resolve two conflicting provisions in the code. One code section says that all commercial projects subject to design review must comply with the 'basic commercial' requirements, while another says that the Port design criteria are the "only" design requirements applicable to the Port peninsula area. According to the authors of the 2004 amendment, the intent was the latter, which reflected pre-2004 code.

#11 The proposed amendment refers to the "small lot provision". Please explain both the provision and the logic to focus design review on small lots. The provision is intended to reconcile the citywide 'less than 5,000 square foot' design review requirement with the 'more than 6 homes per acre' clause of village and centers. The two are comparable, but the former provides a "bright line" for administration while the latter is difficult to interpret in the context of each individual lot. See above regarding the City's decision to draw a distinction between large and small lots.

#A 6 The text clearly states that projects subject to design review include "single family housing on lots less than 5000 square feet or on substandard lots. What, again, is the logic for design review of small lots? This appears contrary to provisions in code and in the Comprehensive Plan to encourage infill and construction of ADUs. Please explain. Requiring design review for housing on small lots and for accessory dwelling units may increase the cost of such in-fill, but it also may result in it being of higher quality and

more compatible with existing neighborhoods and thus more acceptable to the community. See above re the small lot distinction.

#A 10 What is the logic for this apparent discrimination against smaller houses?

Is the current language on design review consistent with the Comprehensive Plan? As noted above, the staff can only speculate regarding the reasoning of Council members over ten years ago. It may be that requiring design review for small lots was viewed as a means of making them more acceptable to the community (until 1995 the minimum detached single-family home lot size was 5,000 square feet), or that homes on such lots were likely to have less aesthetic appeal due to the narrow frontages, dominance by garages, repetitive use of the same design, or lower costs of the structures. The staff believes this code provision is reflective of and consistent with the Plan.

OMC 18.100.080 Design Review Districts and Corridors. The “clarifying amendments” under this section of the code remove the numeration of the High Density Corridor and refer only to “High Density Corridor”. (p. 17 of 5/18) Is this a typo? Should it be “High Density Corridors” ? Why are the numbers “1,2,3,and 4” eliminated

Various other corridors are identified and remain in the clarifying amendment, e.g. Residential Scale Corridor. The text states that these corridors are defined on the Official Design Review Map. Should these definitions or the actual map not be part of the Comprehensive Plan? Would it be possible to propose a separate term for design review corridors, e.g. design review districts? The proposed text reflects the phrasing on the adopted design review map – the Commission could recommend that the map be revised or that other language be used. Customarily details like a design review map are not included in the Comprehensive Plan, instead the Plan provides general guidance for creating the regulatory maps.

OMC 18.100.090 Design Review Process. The listing of design districts and corridors creates confusion. Is it possible to significantly simplify these districts and corridors? Could the single definition of “district” replace the designation of corridor? Where is the logic for these separate design districts and corridors? Should it not be stated in the code? The near byzantine overlapping and redundancy among design review districts and corridors argues strongly for a fundamental revision of the design review code. It appears a thicket whose obvious if unintended consequence is delay of project proposals, as likely differences in interpretations are negotiated between project proponents and staff. Would it not be logical to await the contracted review of standards rather than confirm the existing complexity and likely confusion of the current design review code? (See Question #1 above) The proposed amendment – by aligning the terms in the text with those on the map - is one step toward addressing this issue. More clarification may be achieved if and when the City finds the resources for another comprehensive update of the design code.

Basic Commercial Design Criteria (Attachment 3 to 5/18 packet) The language often appears too general to provide clear guidance. The likely consequence will be (or is) protracted negotiation or, perhaps, the cancellation of projects as a result of an inability to come to an agreement on the meaning of the criteria. How is this determined and by

whom? [Examples were provided with the question.] The various design criteria are interpreted by staff during review of each project, with advice being provided by the Design Review Board for larger projects and those downtown. Final decisions regarding compliance with design criteria are made by the Site Plan Review Committee (staff), Building Official, or Hearing Examiner depending on the specific project and stage of review.

Basic Commercial Design Criteria - Attachment 4 (27-41 of packet of 5/18) Here, the requirements listed in the above section of the briefing are repeated for some provisions. Additional provisions are listed, e.g. "Building location and design"  
The relation between Attachment 3 and Attachment 4 is quite confusing. Are the sections of code for the Commercial Design Criteria selective? Why are some sections of code presented while others are not? In summary, the rationale for these two attachments is not clear. No changes in the text appear to be proposed by staff. These two attachments were provided for convenience. Attachment 4 (criteria) reflected the full code that would become applicable to more commercial projects if the amendment is adopted. Attachment 3 excerpted just the "requirements" from the criteria (but not the advisory "guidelines") to provide a shorter 'one page' version.

Testimony and Discussion at the Commission Meeting of 5/18 [Questions excerpted from testimony summaries]

Is it feasible to use precise language with reference to design features? How do other cities deal with this issue? All design requirements must meet specificity requirements established by the courts. Many jurisdictions use the same 'requirements plus guidance' approach as Olympia. As noted above, Olympia has twice updated its design requirements to provide more substantive clarity.

What is the current process to resolve such conflicts? What is the range of delay in project action as a result of such conflicts? Could conflicts go immediately to the Hearing Examiner? Any interested party may appeal a design decision to the Hearing Examiner. Such appeals are generally decided within 90 days. Olympia once had a separate appeal step for design issues. It was eliminated as part of streamlining the development review process in response to the Local Project Review Act which limits the number of appeal opportunities.

In your opinion and based on your experience, would simplification and clarification of the design review standards and procedures have a significant effect in reducing the cost of compliance? The referenced costs are for 'extra' materials that must be produced by an applicant. These materials are outlined in 'application content lists' prescribed by ordinance and could be changed. However, most are basic to having a design review step in development review. Note that although the requirements are identical, many applicants choose to produce more costly display materials when a project is to be reviewed by the Design Review Board.

Can you comment on how simplification of the current design review standards and

procedures might impact the future built environment of Olympia? In theory changing the procedures should not result in a substantial difference – but procedures do equate to costs so there would be some difference. Differences resulting from substantive changes in the standards would depend on the specific changes.

What is the percentage of commercial buildings that are designed by licensed architects? What is the percentage of residential buildings currently subject to design review that are designed by architects? Certification by a licensed engineer is required for all structures over a minimal size in the City. Could this be a useful model for design review? More time will be needed to research these questions. For the numeric ones, estimates will probably be available at the June 1 meeting. If applicable to project designers, the last question raises legal questions of the City's authority to require licensing not required by the State –with regard to City staff, licensing and certification of reviewers could be required, but would likely increase City costs.