



Meeting Agenda

Planning Commission

City Hall
601 4th Avenue E
Olympia, WA 98501

Contact: Stacey Ray
360.753.8046

Monday, August 20, 2018

6:30 PM

Room 207

1. CALL TO ORDER

Estimated time for items 1 through 5: 20 minutes

1.A ROLL CALL

2. APPROVAL OF AGENDA

3. APPROVAL OF MINUTES

[18-0793](#) Approval of August 6, 2018 Planning Commission Meeting Minutes

Attachments: [August 6, 2018 Draft Meeting Minutes](#)

4. PUBLIC COMMENT

During this portion of the meeting, citizens may address the Commission regarding items related to City business, including items on the Agenda. In order for the Committee or Commission to maintain impartiality and the appearance of fairness in upcoming matters and to comply with Public Disclosure Law for political campaigns, speakers will not be permitted to make public comments before the Committee or Commission in these two areas: (1) on agenda items for which the Committee or Commission either held a Public Hearing in the last 45 days, or will hold a Public Hearing within 45 days or for quasi-judicial review items for which there can be only one public hearing, or (2) where the speaker promotes or opposes a candidate for public office or a ballot measure.

5. STAFF ANNOUNCEMENTS

This agenda item is also an opportunity for Commissioners to ask staff about City or Planning Commission business.

6. BUSINESS ITEMS

[18-0777](#) Sign Code Update Discussion of Applicable Court Cases

Attachments: [Hyperlink](#)
[Legal Analysis Summary](#)

Estimated time: 45 minutes

7. REPORTS

From Staff, Officers, and Commissioners, and regarding relevant topics.

8. OTHER TOPICS**9. ADJOURNMENT**

Approximately 9:30 p.m.

Upcoming Meetings

Next regular Commission meeting is September 17, 2018. See 'meeting details' in Legistar for list of other meetings and events related to Commission activities.

Accommodations

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Advisory Committee meeting, please contact the Advisory Committee staff liaison (contact number in the upper right corner of the agenda) at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.



City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

Planning Commission
Approval of August 6, 2018 Planning
Commission Meeting Minutes

Agenda Date: 8/20/2018
Agenda Item Number:
File Number: 18-0793

Type: minutes **Version:** 1 **Status:** In Committee

Title

Approval of August 6, 2018 Planning Commission Meeting Minutes



Meeting Minutes - Draft

Planning Commission

City Hall
601 4th Avenue E
Olympia, WA 98501

Contact: Stacey Ray
360.753.8046

Monday, August 6, 2018

6:30 PM

Room 207

1. CALL TO ORDER

Chair Rad Cunningham called the meeting to order at 6:30 p.m.

1.A ROLL CALL

Present: 6 - Chair Rad Cunningham, Commissioner Tammy Adams, Commissioner Kento Azegami, Commissioner Joel Baxter, Commissioner Travis Burns and Commissioner Carole Richmond

Excused: 3 - Commissioner Jessica Blose, Commissioner Paula Ehlers and Commissioner Candi Millar

OTHERS PRESENT

City of Olympia Community Planning and Development Staff:
Leonard Bauer, Deputy Director
Nicole Floyd, Senior Planner
Joyce Phillips, Senior Planner
Stacey Ray, Senior Planner
Paula Smith, Associate Planner
Tim Smith, Principal Planner
Reace Fant, Intern

Administrative Services:
Debbie Sullivan, Administrative Services Director

2. APPROVAL OF AGENDA

Chair Cunningham suggested Business item 18-0740 Briefing on the Preliminary Capital Facilities Plan, 2019-2024 Financial Plan be moved to after the three business items with public hearings. Commissioner Azegami moved, seconded by Vice-Chair Richmond.

The agenda was unanimously approved as amended.

3. APPROVAL OF MINUTES

[18-0737](#) Approval of July 23, 2018 Meeting Minutes

The minutes were approved.

4. PUBLIC COMMENT

John Newman a Recognized Neighborhood Association officer spoke.

5. STAFF ANNOUNCEMENTS

Ms. Ray made announcements.

6. BUSINESS ITEMS

[18-0713](#) Small Cell Zoning Code Amendment- Public Hearing

Ms. Smith provided an overview of the proposed small cell zoning code amendments. Members of the public provided testimony.

Vice-Chair Richmond moved to recommend to Council approval of the code amendments as proposed, seconded by Commissioner Burns. All in favor.

Aye: 6 - Chair Cunningham, Commissioner Adams, Commissioner Azegami, Commissioner Baxter, Commissioner Burns and Commissioner Richmond

Excused: 3 - Commissioner Blose, Commissioner Ehlers and Commissioner Millar

[18-0710](#) Black Lake Blvd/Hwy 101 Comprehensive Plan Amendment and Rezone - Public Hearing

Ms. Phillips provided an overview of the proposed Black Lake Blvd/Hwy 101 Comprehensive Plan Amendment and Rezone. Members of the public provided testimony.

Commissioner Burns moved to recommend to the City Council approval of the Comprehensive Plan Amendment and Rezone as proposed, seconded by Commissioner Baxter. All in favor.

Aye: 6 - Chair Cunningham, Commissioner Adams, Commissioner Azegami, Commissioner Baxter, Commissioner Burns and Commissioner Richmond

Excused: 3 - Commissioner Blose, Commissioner Ehlers and Commissioner Millar

[18-0721](#) Comprehensive Plan Amendment to Memorialize Important Downtown Views - Public Hearing

Mr. Fant provided an overview of the proposed Comprehensive Plan Amendment to memorialize important downtown views. There was no public testimony on the proposal.

Vice-Chair Richmond moved to recommend City Council approve the Comprehensive Plan Amendment as proposed, seconded by Commissioner Azegami. All in favor.

Aye: 6 - Chair Cunningham, Commissioner Adams, Commissioner Azegami, Commissioner Baxter, Commissioner Burns and Commissioner Richmond

Excused: 3 - Commissioner Blose, Commissioner Ehlers and Commissioner Millar

[18-0740](#) Briefing on the Preliminary Capital Facilities Plan, 2019-2024 Financial Plan

Ms. Sullivan presented information on the preliminary Capital Facilities Plan.

The information was received.

Excused: 3 - Commissioner Blose, Commissioner Ehlers and Commissioner Millar

[18-0728](#) Zoning code text amendments related to Low Impact Development (LID) - Deliberation

Ms. Floyd provided an overview of the proposed Zoning Code text amendments related to Low Impact Development. Commissioners deliberated on the staff recommended amendments.

Commissioner Burns moved to recommend to City Council approval of the zoning code amendments as proposed, seconded by Commissioner Baxter.

Aye: 6 - Chair Cunningham, Commissioner Adams, Commissioner Azegami, Commissioner Baxter, Commissioner Burns and Commissioner Richmond

Excused: 3 - Commissioner Blose, Commissioner Ehlers and Commissioner Millar

[18-0738](#) Comment Letter to the City Council regarding Missing Middle Infill Housing Recommendations

The Commission continued discussion on the draft letter to the City Council summarizing the Commission's recommendations regarding Missing Middle.

Chair Cunningham moved to finalize and forward a recommendation letter on Missing Middle Infill Housing to the City Council, seconded by Commissioner Azegami. All in favor.

7. **REPORTS - NONE**

8. **OTHER TOPICS - NONE**

9. **ADJOURNMENT**

The meeting adjourned at 9:33 p.m.

Upcoming Meetings

The next regular Commission meeting is August 20, 2018.



Planning Commission

Sign Code Update Discussion of Applicable Court Cases

Agenda Date: 8/20/2018
Agenda Item Number:
File Number: 18-0777

Type: discussion Version: 1 Status: In Committee

Title

Sign Code Update Discussion of Applicable Court Cases

Recommended Action

Information only. No action requested.

Report

Issue:

Discussion of significant and relevant court cases and decisions that affect the approaches used in the draft update of the Olympia Sign Code.

Staff Contact:

Joyce Phillips, Senior Planner, Community Planning and Development, 360.570.3722

Presenter(s):

Joyce Phillips, Senior Planner, Community Planning and Development
Daniel P. Kenny, Attorney, Ogden Murphy Wallace

Background and Analysis:

The City of Olympia has not updated its sign code in several years. Staff had an interest in updating it, to make it easier to understand and administer. In June 2015, the United States Supreme Court issued a decision related to temporary signs in the Reed et al v. Town of Gilbert, Arizona (Reed v. Gilbert) case, which provided direction to cities, towns, and counties regarding regulation of signs in regard to content and freedom of speech.

In August 2017, the Ninth Circuit Court of Appeals issued an opinion in a related case, holding that Reed v. Town of Gilbert does not extend to commercial speech. There are also other pertinent cases that apply to signs, some of which are specific to signage in Washington State.

The City contracted with Ogden Murphy Wallace and BERK Consulting to update the sign code.

The City developed and worked with a group of stakeholders to discuss and provide input on policy issues around how issues should be addressed in a new sign code. The Advisory Committee discussed temporary and permanent signs, commercial and non-commercial signs, and the

applicable court cases. In early July the first public draft of the new sign code was published on the city's website.

Neighborhood/Community Interests (if known):

Comments received to date have varied. Some people are interested in increasing the type, number, and sizes of signs allowed. Some people are interested in having less temporary commercial signage along street rights of way. Some have indicated an interest in revising certain standards, such as the provisions addressing placement of signs on sidewalks. Others have included comments about political signs, flags, and signs in residential neighborhoods. Additionally, concern about the frequency with which any electronic portion of a sign can change its message has been raised. Staff is reviewing studies related to that issue and will prepare information for the Planning Commission and City Council to use in its decision-making process. These are all valuable and relevant topics that will continue to be explored.

There is a public Open House scheduled for Tuesday, August 28, 2018.

Options:

Information and discussion only.

Financial Impact:

The budget to update the sign code is included in the Community Planning and Development Department's base budget.

Attachments

Sign Code Update Webpage
Legal Analysis Summary

Legal Analysis – Key Findings for Developing New Sign Code

The legal analysis assumes there is relative safety to signage with time, place, or manner restrictions provided the restrictions are: (1) without reference to the content of the regulated speech; (2) are narrowly tailored to serve a significant governmental interest; and (3) leave open alternative channels for communication of the information the signage was intended to communicate. Such time, place, and manner restrictions include:

- Rules regulating the size of signs. These rules may distinguish among signs based on any content-neutral criteria, including any relevant criteria listed below.
- Rules regulating the locations in which signs may be placed. These rules may distinguish between free-standing signs and those attached to buildings.
- Rules distinguishing between lighted and unlighted signs.
- Rules distinguishing between signs with fixed messages and electronic signs with messages that change.
- Rules distinguishing between the placement of signs on private and public property.
- Rules distinguishing between the placement of signs on commercial and residential property.
- Rules restricting the total number of signs allowed per a specified distance of roadway.
- Rules regulating commercial speech under the intermediate *Central Hudson* test (as modified by Ninth Circuit):
 - 1) Speech is protected;
 - 2) The rule(s) serve a *substantial* as opposed to a *compelling* governmental interest;
 - 3) The rule(s) directly advance the real governmental interest asserted; and
 - 4) The rule(s) be narrowly tailored to serve that interest.



Legal Analysis – Emerging Themes Moving Forward

High-level themes emerging from legal review that are important to consider as development of the new sign code moves forward:

- Since the First Amendment prevents sign codes from treating noncommercial messages less favorably than commercial messages, restrictions cannot carve out specific exceptions for particular commercial messages not allowed for noncommercial messages.
- The implications of *Reed* on the City's subsequent sign code revisions reach outside of the Sign Code (OMC 18.42). The City must consider changes to the definitions located in OMC 18.02 (Basic Provisions), the design review standards in 18.100 (Design Review), policies for sign application, possibly solicitation, etc.
- The Design Review guidelines and criteria must be sufficiently specific and content-neutral and also must be consistent with the sign code. Those guidelines/criteria need better clarification as to the interface between the general sign code and the allowances provided by design review.
- The inclusion of sign regulations in the design review sections is not applied consistently. There are design districts that lack specific provisions for signs, while others have such section.
- The inclusion of sign regulations in the design review section stretches the regulations out within the code making it more challenging for an individual to understand the full scope of the regulations.
- Certain uses are called out throughout the sign code. Any differentiation of uses will need to be carefully considered and implemented in a content-neutral manner going forward.
- While a regulation can relate to the parcel, it cannot be required to relate to the use.
- The City will need to make a policy decision on how conservative it would like to be with regard to commercial signs. A conservative approach would be to examine all sign provisions during this process.
- Content based regulations are intermingled throughout the code, not just in the political sign or temporary sign sections. For example, see OMC 18.42.040.

