

APPROVED

## CITY OF BREMERTON

### PLANNING COMMISSION MINUTES OF REGULAR MEETING June 21, 2016

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#### CALL TO ORDER:

Chair Wofford called the regular meeting of the Bremerton Planning Commission to order at 5:30 p.m.

#### ROLL CALL

##### Commissioners Present

Chair Wofford  
Commissioner Goodnow  
Commissioner Nerf  
Commissioner Tift

##### Staff Present

Andrea Spencer, Director, Department of Community Development  
Allison Satter, Senior Planner, Department of Community Development  
Kylie Purves, Assistant City Attorney

##### Commissioners Absent

Vice Chair Nethery (excused)  
Commissioner Strube (excused)

*Quorum Certified*

#### APPROVAL OF AGENDA

COMMISSIONER TIFT MOVED TO APPROVE THE AGENDA AS PRESENTED. COMMISSIONER GOODNOW SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

#### APPROVAL OF MINUTES

COMMISSIONER TIFT MOVED TO APPROVE THE MINUTES OF APRIL 19, 2016 AS PRESENTED. COMMISSIONER GOODNOW SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

#### PUBLIC MEETING

Call to the Public (public comments on any item not on the agenda)

Chair Wofford asked if there were any comments from citizens. Seeing none, he closed the public portion of the meeting.

#### Public Workshop: Bremerton Municipal Code Sign Regulations (BMC 20.52)

Director Spencer introduced Kylie Purves, who joined the City staff earlier this year as the Assistant City Attorney.

Ms. Purves provided an overview of a recent Supreme Court Case (Reed vs. Town of Gilbert), which came out in June of 2015, and involves signs. The purpose of her presentation is to explain the decision's implications on jurisdictions

throughout the United States, and particularly the City of Bremerton. The case claimed that the City of Gilbert, Arizona, had enacted sign regulations that impacted the First Amendment rights of a citizen's group that was active in the municipality. The plaintiff in the case, Clyde Reed, the pastor of Good News Community Church, placed temporary signs in the public right-of-way to direct people to Sunday services. The church did not have a permanent home, and they met in various locations throughout the City, depending on where they were able to use space. The Town of Gilbert's sign code attempted to regulate signs in a way that was content neutral. For example, it allowed non-political, non-ideological, non-commercial "qualifying event" signs, and the church service was considered a qualifying event. However, the signs could not exceed six square feet and they could only be up 12 hours before and one hour after the event. On the other hand, political signs were allowed a maximum of 32 square feet and could be up 60 days before and 15 days after any election. Also, ideological signs were allowed a maximum of 20 square feet and could be displayed for an unlimited amount of time, but they could not be located in the right-of-way. This provision was intended to be a catch all for the First Amendment.

**Ms. Purves** advised that the intent of Gilbert's sign code is similar to sign codes in other communities throughout the country: ensuring there are not too many signs to distract drivers and to maintain the aesthetics of the community. The Town of Gilbert did not intend to give anyone special treatment. They thought their sign code was good and they were trying to enforce it uniformly across the board. They thought that because the sign regulations did not distinguish between different opinions or parties, the regulations were content neutral. However, if the intent is to keep signs out of the right-of-way because they are distracting and cause clutter, the Supreme Court questioned why the city allowed larger signs to remain in place longer than smaller signs. They determined that the regulations implied that it is more important to talk about politics than where to meet for church, which meets the definition of a content-based regulation.

**Ms. Purves** explained that content-based restrictions have to survive strict scrutiny in order to be upheld, and this standard is rarely met. The Town of Gilbert was unable to meet the standard, as their sign code required the code enforcement officer to read the sign content in order to know where to put it in the framework of the code. The majority opinion was that because it singled out for differential treatment, even if it didn't target viewpoints, it was a content-based regulation that did not pass constitutional analysis. The court's decision explained that if the reason for the code is beautification of the town and concern over confusing drivers by having too many signs, the regulations must line up with what that intent. Because political signs would be just as distracting as directional signs, the regulations did not add up. They basically placed arbitrary restrictions on different signs based on what they perceived as a value judgement on what people needed to hear. She emphasized that the town's motives were considered innocent, and they didn't find any evidence of the town engaging in any sort of discrimination or bad faith. It was simply found unconstitutional because it was a content-based restriction.

**Ms. Purves** advised that the majority opinion, issued by Justice Thomas, was accompanied by three concurring opinions in which the other justices agreed with the result of the majority opinion but for different reasons. Justice Alito provided guidance in his concurring opinion. He suggested that rather than message, signs should be regulated based on size and location standards, lighting, fixed vs. changing, commercial vs. residential, on-premise vs. off-premise, etc. He summarized that if cities make sure their restrictions are tailored narrowly with their reasons for regulating in the first place, they should be okay.

**Ms. Satter** reminded the Commission of the Comprehensive Plan, which sets the goals, policies and objectives going forward. She specifically noted the following:

#### **Economic Development Element**

- Goal ED2 calls for "revitalizing Bremerton's commercial districts by upgrading and enhancing the aesthetic quality of existing building and street frontages.
- Policy ED2(A) calls for encouraging upgrades and rehabilitation of exiting commercial development through a wide variety of means, including the recognition and preservation of historical storefronts and signage.
- Policy ED2(B) calls for ensuring new commercial development promotes street level activation to encourage walkability and social interaction through site and façade design.

#### **Land Use Element**

- Goal LU1 calls for planning for Bremerton's population and employment growth.
- Policy LU2(E) calls for promoting exposure of City businesses and community events by signage that is proportional to the intensity of the land use designations while recognizing the existing character of the

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neighborhood. It also calls for discouraging off-premise signage throughout the City, including billboards, with exceptions for special events to be considered.

Ms. Satter summarized that the current sign code (BMC 20.52) is concise and relatively straight forward. Most requested signs are approved through the current code; and for the most part it is already separated by zoning districts and is not content-based. The City has the ability to regulate the size and number of signs, as well as the materials allowed. However, if the code requires the City to read what a sign says to administer the provisions, it will not pass the “strict scrutiny” requirement. The City cannot regulate based on content. Staff recognizes that some provisions in the existing regulations will not pass the strict scrutiny test and improvements are needed. These will be noted, but staff is not promoting suggestions for updates at this time. The Supreme Court decision also makes portions of the code difficult to enforce and administer and changes are needed to bring it into compliance. She pointed out that many of the updates will make the code more generalized, which creates more potential for loopholes. A lot of work will be needed on certain sections to get all the provisions to the same place.

Ms. Satter said the purpose of tonight’s workshop is for staff to present the current sign code regulations (BMC 20.52), identify areas that will be impacted by the Supreme Court decision, and propose some additional amendments. Staff will also discuss the reasoning behind the current regulations. As the discussion moves forward, she invited the Commissioners to provide feedback on anything that needs to be added to the record on history or objectives or other revisions that may be needed. Staff will pose questions throughout the presentation for the Commission to respond to, and the questions will be revisited at the end of the discussion. Public testimony will also be considered as part of the discussion. The goal is for the Planning Commission to provide direction on how to draft the sign code regulations. Any feedback will be incorporated into the next workshop.

Ms. Satter advised that staff already knows that the following sections will need to be updated due to the Supreme Court decision: exempt signage, temporary signage, political signage, auto-dealership signage, and special purpose signage. There will likely be minor amendments for the majority of other sections, as well. Staff would specifically like feedback from the Planning Commission relative to the non-conforming sign regulations that were adopted in 2014 before the Comprehensive Plan was updated. She reviewed each section of the sign code as follows:

- **BMC 20.52.010 – Intent.** The intent of the sign code is to protect the public from damage or injury attributable to distractions and obstructions and to stabilize or enhance the overall appearance of the community and protect property values. Staff is primarily happy with this section, as written. The sign code is intended to regulate the number, size, placement and physical characteristics of signs and sign structures, but they are not intended to restrict, limit or control the content of any sign message.
- **BMC 20.52.020 – Applicability.** This section identifies what areas in the City have applicable sign regulations. The sign code applies everywhere in the City.
- **BMC 20.52.030 – Sign Permit.** This section outlines when a permit is required and what makes a complete application.
- **BMC 20.52.040 – Exempt Signage.** This portion of the code regulates exempt signs that do not require a permit. Signs that are non-commercial, incidental or temporary in nature (i.e. traffic signals, traffic signs, flags, incidental signs, directional signs, etc.) do not require a permit, but the sign code provisions still apply. Several items in this section need to be reviewed for consistency with the Supreme Court’s decision including permanent plaques, incidental signs, real estate signs, temporary signs, public information signs, wall graphics and political signs. For example, before the Supreme Court decision, the City could allow an exemption for “for sale” or “for rent” signs. Rather than limiting the exemption to what the sign says, the code will need to be changed to allow an exemption for an extra sign on a property that is currently for sale or rent.
- **BMC 20.52.040 – Prohibited Signs.** This portion of the code prohibits certain signage due to safety concerns. It also limits the placement and location of the sign. Other items in this section will need to be reviewed based on the current Supreme Court decision. For example, the City code prohibits lights or other flashing, moving or animated features. In addition, reader board signs cannot change copy more frequently than 2-second intervals, but there is an exemption for time and temperature that will need to be removed. Product signs, other than those at a franchise business identifying the

franchise product, are currently prohibited, and this may be a problem based on the Supreme Court decision. Staff is particularly seeking feedback on whether or not the 2-second interval for flashing signs is appropriate. Many jurisdictions have increased the intervals to something greater than 2. Because reader boards are allowed in every zoning district in the City, this is an opportunity to have them flash less frequently.

- **BMC 20.52.060 – Sign Measurements.** This portion of the code regulates how sign area is calculated as many sign regulations are based off of square footage of a sign. This section of the code is not content based, so there will likely be only minor revisions.
- **BMC 20.52.070 – Sign Placement Requirements.** This portion of the code regulates the placement of signs on properties. It addresses the clear vision triangle and signs allowed in the right-of-way. This section of the code is not content based, so there will likely be only minor revisions.
- **BMC 20.52.080 – Temporary Signs.** Any property in the City can get a temporary sign that is subject to the placement, size and height requirements of the chapter. Temporary signs can be used when a permanent sign is destroyed or a starter business may put up a temporary banner until permanent signage is complete, and 60 days should be sufficient time to obtain a permanent sign. Based on the Supreme Court decision, the City will have to revisit the provisions in the section. Currently, temporary signs can be up for 60 days and then must be removed for 90 days. Businesses can put up another temporary sign for another 60 days. Currently, temporary signs can be up to 32 square feet in size, and banners can be 100 square feet. The maximum height from the ground is 6 feet for a sign and 20 feet for a banner. A permit is required for the signs. Temporary signs that are displayed for less than 7 days, are less than 24 square feet in size, and are less than 6 feet high are exempt from the permit requirement.
- **BMC 20.52.085 – Political Signs.** This portion of the code regulates political signs that are defined as noncommercial speech signs (religious, political, social, or other philosophical message). The content of these signs is not regulated, but they are subject to additional requirements. No permit would be required as long as the sign does not exceed 32 square feet or 6 feet in height (same as for temporary signs). Political signs that advertise a candidate or issue of an upcoming election must be removed within 14 days after a general election. This is not consistent with the temporary sign requirements, so changes will need to be made to be compliant with the Supreme Court decision.
- **BMC 20.52.090 – General Sign Regulations.** This portion of the code provides general overall sign regulations that apply to all zoning districts. It requires vision clearance for all signs and allows signs to expand beyond the rooftop in commercial and center zones. Window signs are allowed if they can be seen from outside, but they count towards the total area of signage allowed. Landscaping is required for freestanding (pole or monument) signs.
- **BMC 20.52.100 – Commercial District Signs.** This portion of the code regulates all signs located within a commercial zone (not including centers). Currently, every parcel is allowed one freestanding sign, and large parcels (over 500 feet of continuous frontage) are allowed an additional sign. Co-Op signs are allowed as discussed by the Commission in September and October of 2014. This allows non-fronting parcels on Wheaton Way and Kitsap Way to work with their fronting neighbors to place co-op signs on the fronting road. Building signs are allowed, but the size is limited to 2 square feet of sign area for every 1 lineal foot of frontage. Building signs cannot exceed 100 square feet unless the sign is less than 10% of the façade. Industrial uses in commercial zones are allowed a maximum 100 square feet of aggregate sign area. Something to review under the Supreme Court decision is whether regulating signs at shopping centers and professional complexes is too specific.
- **Figure 20.52(A).** Many provisions in the sign code lead to Figure 20.52(A), which identifies the allowed type of freestanding signage and design size requirements. Freestanding signs can be either pole or monument signs. The size of the sign is based on the intensity of the zoning district. The majority of the commercial districts allow monument signs up to 60 square feet, but the Freeway Corridor and Industrial Zones allow monument signs up to 100 square feet. High-density urban areas tend to have more foot traffic, so there is typically more demand for small-scale and sidewalk signs. High-traffic streets and highways require larger and taller signage for good visibility, which leads to a demand for larger signs that are visible to drivers rather than pedestrians. Pole signs are only allowed within the Freeway Corridor.

- **BMC 20.52.110 – Auto Dealership Signs.** This section applies within the Freeway Corridor zone, which allows the majority of commercial uses, including light industrial (outright) and heavy industrial (conditionally) uses. Auto dealerships are allowed additional signage based on how many franchises are located on site. Currently, 50 square feet is allowed per franchise, not to exceed 150 square feet for a pole sign or 200 square feet for a monument sign. Based on the Supreme Court decision, staff does not believe it is appropriate to allow auto dealerships more signage than other businesses in the Freeway Corridor zone. She asked the Commission to provide feedback about whether or not the entire Freeway Corridor should be allowed to have the larger size.
- **BMC 20.52.120 – Residential District Signs.** This section regulates signs located within residential zones. Currently, the code allows up to 50 square feet of signage at entrances to neighborhoods, apartments and subdivisions. Multi-family development (four or more units) is only allowed to have four square feet of signage. Individual property owners can have 2 square feet of signage. This allows for signage for home occupations, but keeps the residential neighborhood aesthetics intact. The provision does not regulate non-commercial speech signs. Based on the Supreme Court decision, staff has some concerns about regulating entrance signs differently than multi-family signs.
- **BMC 20.52.120 – Special Purpose Signs.** This section regulates signs for non-residential uses that are located within residential zones (i.e. churches, parks, or non-conforming commercial uses). Currently, the code allows one freestanding sign per street frontage, and the maximum size is 50 square feet. The maximum area allowed for building signs is 100 square feet. Commercial uses may be more restrictive on sign size as it is based off lineal store frontage but is only allowed one sign per street frontage. Signs within residential zones can only be illuminated between the hours of 7 a.m. and 10 p.m. so they do not conflict with their residential neighbors.
- **BMC 20.52.140 – Downtown and Centers Signs.** This section of the code regulates signs located within a Center (Downtown Center, Wheaton/Riddell and Wheaton/Sheridan District Centers, Charleston and Manette Neighborhood Centers). Freestanding signs of up to 60 square feet are allowed, but a wide lot may have a sign that is up to 100 square feet. However, the code does not currently define “wide parcel.” This section also includes a provision that signs shall be no closer than 25 feet from adjacent properties, which may be difficult in the downtown where some parcels are small. The code allows the Director to modify the requirement where factors such as width of lot, driveway access or site configuration makes compliance impossible. Building signs must comply with the Commercial District regulations, and moving, flashing or animated signs are prohibited. As centers promote both housing and jobs, the moving signs would distract drivers and could impact the neighboring residents.
- **BMC 20.52.150 – Variations to Sign Regulations.** This portion of the code authorizes the Director to allow minor departures from the code. Currently, the code allows the Director to approve a larger sign that is within 10% of the basic requirement based on a hardship or problem with the site, existing building placement, or poor site visibility. However, the variance cannot be based on economic factors or personal design preferences. A request beyond 10% must be processed as a variance.
- **BMC 20.52.150 – Portable Signs.** Portable signs on the sidewalk are allowed, but the City does have a policy to minimize off-premise signage. Currently, a portable sign must have 4 feet of unobstructed sidewalk in front of the property. One per business is allowed, but it must be immediately adjacent to the main entrance. The maximum size is 32 inches wide and maximum height is 36 inches. The signs must be professionally lettered, neatly painted or assembled, and remain in good repair. The signs should be structurally sound to avoid being blown away or over. Landscaping areas should not be affected by the portable signs. Per Washington State Department of Transportation (WSDOT) regulations, portable signs are not allowed on SR-3, SR 303, SR 304 and SR 310.
- **BMC 20.52.180 – Non-Conforming Signs.** This portion of the code regulates signs that do not comply with the City’s current regulations. The non-conforming sign provisions were revised in February of 2014 to remove amortization of non-conforming signage. To accommodate the removal of signs, more detailed non-conforming provisions were adopted to try to reduce the non-conforming signage over time (as a building goes through substantial repair vs. a citywide compliance through amortization). In October of 2014, the 1-year provision for non-conforming signs was removed due to the acknowledgement of the impacts from the recession. Rather than requiring businesses that had been closed for more than one year to remove the non-compliant sign, the provision was changed to require businesses to bring signs

into compliance if they are proposing to do more than \$50,000 in improvements. Several examples were provided to illustrate the outcome of the non-conforming sign regulations.

- **BMC 20.52.190 – Government Acquisition of Property for Right-of-Way.** This portion of the code regulates the protocol when the government acquires land and existing signs become non-conforming. The current code allows a sign to be placed near the property line provided the location does not impact sight distance from the intersections and is consistent with the public health, safety and welfare.
- **BMC 20.52.200 – Removal of Signs.** This portion of the code applies to signs that are dangerous, illegal, prohibited, defective or abandoned. As written, it requires that all components of the signs must be removed, and failure to comply may result in a penalty.

**Ms. Satter** advised that, moving forward, the staff will be being preparing the draft sign regulations after receiving direction from the Commission. Staff is proposing to keep the majority of the current sign code objectives intact, but make the provisions more content neutral. This includes:

- Allowing all businesses to have signage.
- The maximum size of a sign would be based on the intensity of the zone and the anticipated target audience.
- No off-premise signage would be allowed, except for co-op signs or portable signs.
- Freestanding monument signs would be allowed in all commercial zones, but pole signs would only be allowed in Industrial and Freeway Corridor zones.
- The non-conforming sign requirements have resulted in getting more signage into conformance with the City's regulations.

**Chair Wofford** opened the floor for public comment. No one indicated a desire to comment, and the public comment period was closed.

**Commissioner Tift** asked how real estate signs are currently regulated and if there are size limitations. **Ms. Satter** answered that real estate signs are regulated as on-premise signs, which are exempt based on the provision that allows an extra sign on a property that is currently for sale or rent. There are no size limitations at this time, but off-premise real estate signs that are located in the right-of-way are regulated. The City has not received any complaints about real estate signs.

**Commissioner Tift** asked if single-family residential property owners are allowed to place large signs on their homes, such as welcome signs. **Ms. Satter** said signage that is incorporated into the building and is less than 2 square feet in size is exempt from the sign code provisions. While this is definitely something that needs to be considered as part of the Commission's review, the provisions cannot be content based.

**Commissioner Tift** inquired if there are size limits for political signs in addition to time limitations. **Ms. Satter** said the current code limits political signs to a maximum of 32 square feet or 6 feet in height, which is the same as for temporary signs. Larger political signs are allowed but require a permit.

**Commissioner Goodnow** asked if there are time limits for when a property owner must bring a sign into compliance when more than \$50,000 of improvements are made to the property. **Ms. Satter** said sign compliance is usually tied to the building permit. Typically, it will be a condition of approval and the sign must be compliant before occupancy.

**Chair Wofford** asked how the City's parks signs are regulated. **Ms. Satter** answered that a permit is required, and the signs must be compliant. Park signs are considered "special purpose signs," which are allowed to be a maximum of 50 square feet and are limited to one per frontage. **Director Spencer** pointed out that all of the City's parks are zoned residential, and most are located in the R-10 Zone. The City must be careful when writing sign code regulations because the R-10 zone will likely have one size listed and it will be applicable to areas such as parks to home-based businesses. Most of the City's current code is based on zoning district and not on the specific user of the site.

**Chair Wofford** asked how the municipal court sign would be regulated. **Ms. Satter** answered that this sign was approved before the non-conforming sign provisions were adopted. Therefore, they were not required to remove the existing pole sign as part of the remodel work.

**Chair Wofford** referred to a comment the Commission received via email relative to enforcement. Currently, aside from the initial application, there is no follow-up or penalty for non-compliance. He recalled **Ms. Satter's** earlier comment that state routes are governed by WSDOT and asked if the moving sign on Kitsap Way is under State rather than City regulation. **Ms. Satter** clarified that signs located within the City's jurisdiction are regulated by the City. They try not to have codes in place that conflict with the State regulations, but the City does not enforce State rules. **Director Spencer** recalled that when the City's codes are changed, the amendments must be put out for public agency comment. WSDOT asked the City to add regulations relative to portable signs into its codes, and the City is responsible for enforcement. Enforcement is complaint-based, and staff responds when complaints are received. **Commissioner Goodnow** asked if the portable air-filled sign on Kitsap Way (waving man) is covered in the current sign code regulations. **Director Spencer** answered affirmatively; but said that, oftentimes, the property owners do not approach the City for a sign permit. **Commissioner Goodnow** suggested that these types of signs could be regulated as temporary signs, which have specific time limitations.

**Commissioner Goodnow** asked how human signs at intersections are currently regulated. **Ms. Satter** answered that human spinning signs are regulated by the current code. However, they are not allowed if they are located off-premise and within the right-of-way.

**Commissioner Tift** referred to the comment letter from **Ms. Bailey**, which talks about the Swing Set Mall. **Ms. Satter** explained that the co-op provision allows signage for fronting parcels, and one parcel back. The Swing Set Mall is actually multiple parcels back, and they don't have the location that allows them a co-op sign on Wheaton Way. They may have requested an additional sign up front, but off-premise signs are not allowed. Expanding the co-op sign provisions could be something the Commission considers as it moves forward with the sign code review. **Chair Wofford** suggested that businesses with an address on the street should be allowed to have a sign on that same street. **Ms. Satter** agreed that is one way the code could be written.

The Commissioners reviewed the questions posed earlier by staff and provided the following direction:

- **With reader board signs allowed in every zoning district, is the current 2-second interval appropriate?** **Commissioner Nerf** expressed his belief that 2-second intervals are too fast, and 5-second intervals might be more appropriate. **Commissioner Goodnow** said he would also prefer longer intervals. **Ms. Satter** agreed to provide a proposal, as well as examples of how other jurisdictions regulate reader board signs, when the Commission continues its discussion at the next meeting.
- **Should the City have timelines on non-commercial temporary signage?** **Ms. Satter** said these signs include political signs, philosophical signs, religious signs, etc. **Chair Wofford** said he would like the City to limit all non-commercial temporary signage to just seven days after the event has occurred. **Ms. Satter** cautioned that the City cannot regulate based on event. **Director Spencer** suggested that the signs be allowed to go up for a total of 60 days, and the sign owner could decide when those 60 days will be. **Ms. Purves** said this particular type of signage is the most problematic to regulate in a content-neutral yet sensible manner. Staff is reviewing what other jurisdictions are doing, but no other jurisdiction in Kitsap County is as far along as the City of Bremerton in updating sign codes. However, the Association of Washington Cities has provided a model code. Assuming that most temporary non-commercial signs are for an event, **Chair Wofford** suggested that the time limitation could include a time after the event that the sign must be removed. **Ms. Purves** responded that this type of limitation could be a problem because the City would have to look at the sign to know when the event is over. She commented that because temporary signs tend to be more cheaply made and located in the rights-of-way, some jurisdictions are looking at regulating the types of material and where the signs are placed. Staff will continue to look at case law and provide more information as it becomes available.

**Commissioner Tift** pointed out that temporary construction signs are used when buildings are being developed, and these will be followed by temporary "for rent" signs. **Ms. Satter** advised that, currently, temporary signs for construction, real estate marketing and real estate are exempt from the sign code. She acknowledged that some changes will be needed. **Ms. Purves** said one solution put forward by lawyers is to categorize the sign limitations based on the

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use of the property. For example, instead of allowing one sign for each house that is for sale, the code could say houses that are for sale are allowed one additional sign.

**Commissioner Nerf** asked if it would be possible to issue a tag for each sign that is permitted that identifies the date by which the sign must be removed. **Ms. Satter** said that is one option that some jurisdictions are considering. However, it would require more staff time to permit and monitor the signs. **Commissioner Tift** cautioned that the tighter the regulations, the more work is created for staff. Political signs that are up two months after the election is more a reflection on the candidate than it is a nuisance. He recommended that signs not be limited such that they become an enforcement problem for the City.

- **Should auto dealerships get more than 100 square feet of signage, which would allow all Freeway Corridor zoning to get more signage?** **Ms. Satter** explained that dealerships were very influential when the sign code was significantly updated about 12 years ago, and that is why there are specific provisions for car dealerships in the current code. Making changes to reduce the signage they are currently allowed could have significant political ramifications. She commented that the current code language is unusual, since sign code provisions are typically based on zoning rather than use. The Commission discussed existing businesses that currently have more than 100 square feet of signage. **Commissioner Goodnow** suggested that this is an opportunity to use the Supreme Court decision to reel in sign allowances within the Freeway Corridor zone. Another option would be to address it by allowing additional signage based on the number of franchises operating on the site.

**Ms. Satter** pointed out that, based on the Supreme Court decision, changes are needed to this section of the code. That means they must either reduce the sign area allowed for auto dealerships to be consistent with what is allowed for other businesses in the Freeway Corridor zone or increase the sign area for all businesses to be consistent with what is allowed for auto dealerships. **Commissioner Tift** said he would prefer to increase the sign area allowed for all businesses within the zone than try to reel back in the auto dealerships.

**Commissioner Goodnow** suggested that perhaps the franchise signs used by auto dealerships could be regulated similar to co-op signs. **Director Spencer** said she likes the notion of using the co-op sign code regulations as the model. Co-op signs combine the development rights of several parcels into one place. Administering this approach would not require staff to read the sign to make sure it meets the code. However, she is somewhat concerned the City has to read the separate signs to determine that they are separate franchises.

**Ms. Purves** pointed out that jurisdictions did not immediately start amending their signs codes because they wanted to see how the lower courts would interpret the decision. Staff will continue to watch as case law is developed further, particularly relative to the distinction between commercial and non-commercial speech. If the 9<sup>th</sup> Circuit and other courts start leaning the direction of reading the decision to be limited to only non-commercial speech, jurisdictions can continue to regulate commercial speech in the way they did before. Jurisdictions are taking a slow, measured approach as they collect input from stakeholders and review their codes. Political signs are very analogous to the court decisions and everyone knows they need to comply, but whether it will extend to commercial speech is another issue.

- **Should residential signs at neighborhood entrances be regulated different than entrances to apartment complexes?** **Commissioner Goodnow** asked staff to explain the disparity between the two uses. **Director Spencer** said she does not know why the disparity was created in the code, but staff believes the requirement for both should be the same. **Commissioner Goodnow** asked if the provision would apply to large apartment complexes, as well. **Ms. Satter** answered that it would only apply to signs in residential zones, and the large, multi-family projects will be developed in the downtown or center zones where a 60 square foot sign area is allowed. **Commissioner Nerf** commented that it is unlikely that the owner of a 4-unit residential building would want to put up a large sign. The Commissioners generally concurred that the allowable sign area should be consistent for both neighborhood and apartment entrances in residential areas.

**Director Spencer** explained that the intent is to take a slow approach to the sign code update. The workshop is intended to introduce the Commissioners to the concept, and staff's intent is to come back with preliminary code changes in July for another workshop discussion. Notices were sent to the City's development partners, realtors, Master Builders Association, etc., and realtors have volunteered to serve on a committee as the amendments move forward. A public hearing on the sign

code amendments is anticipated in September. This will allow staff time to collect more case law and provide additional examples for the Commission's consideration. Ms. Purves noted that Harvard Law just did a review of all of the cases that have happened since the Supreme Court decision, and their position is that it is being applied to both commercial and non-commercial signs.

Director Spencer announced that the City would create a website specific to the sign code update, which will be available to both the Commission and the public.

## **BUSINESS MEETING**

### **Chair Report**

Chair Wofford did not provide any additional comments.

### **Director Report**

Director Spencer announced that since the Commission's last meeting in April, the City Council has adopted the Comprehensive Plan Update, the Zoning Code Update, minor amendments to the Shoreline Master Program, and expansion of the Multi-Family Tax Incentive target areas. A lot of kudos were shared about the Planning Commission during the City Council's work. She specifically referred to the Comprehensive Plan and Zoning Code Update and noted that there were only minor changes to the Planning Commission's recommended draft:

- The Commission's motion relative to allowing automobile sales in the District Center failed, and the City Council did not accept the change, either. When having their debate, the Commission zoomed in tight on the map of the Wheaton/Sheridan District Center, and the City Council had the same debate and agreed that it may not make sense to allow automobile sales in the District Centers given that it was allowed in General Commercial. However, when they zoomed out on the map, they realized that automobile sales would be allowed in many more areas of the City if the recommendation to allow automobile sales in the General Commercial Zone was adopted. They decided to prohibit automobile sales in the General Commercial zone, as well, and this eliminated the conflict on the Wheaton Way and Kitsap Way Corridors where some parcels would be allowed to have automobile sales and other would not.
- Originally Staff had recommended a requirement of 1 parking space for each multi-family unit in the District Centers, and the Commission received testimony requesting that the parking requirement be reduced to .5 spaces per unit to be consistent with the Downtown Plan. The Council reviewed the Downtown Subarea Plan in detail and found out that only a portion of the downtown had this low standard. The City Council reversed the Commission's recommendation to reduce the parking requirement to .5 spaces per unit in all centers and went back to staff's original proposal of 1 space per unit. Testimony at the City Council hearing was primarily in favor of the 1-per-unit requirement.

Director Spencer advised that the next step is to get plan certification from the Puget Sound Regional Council (PSRC) so the City is eligible to receive funding going into the future, and Ms. Satter has completed the certification application. The Department of Ecology must also approve the Shoreline Plan Limited Amendments, which may take three to six months to complete.

### **Old Business**

Chair Wofford asked if there are applicants to fill the vacant Commission position. Director Spencer answered that there are at least three applicants, and staff will schedule interviews in the near future.

### **New Business**

The Commissioners commended staff for the quality of their work and the products the Commission has received for each item.

Approved

**ADJOURNMENT**

The meeting was adjourned at 7:08 p.m.

Respectively Submitted by:



Andrea L. Spencer, AICP  
Executive Secretary



Nick Wofford, Chair  
Planning Commission

Approved