

Approved

CITY OF BREMERTON
PLANNING COMMISSION
MINUTES OF REGULAR MEETING
July 19, 2016

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
Vice Chair Nethery
Commissioner Goodnow
Commissioner Nerf
Commissioner Strube
Commissioner Tift

Staff Present

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

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 JUNE 21, 2016 AS PRESENTED. COMMISSIONER NERF 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.

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

Ms. Satter explained that the City regulates signs based on the types of zoning, which recognizes the neighborhood and street context. The Freeway Corridor and Industrial Zones are located along the high-traffic roadways and larger, freestanding signs are allowed to capture the attention of the faster traffic that goes by. The District Centers, General Commercial and Institutional Zones are areas with moderate traffic that is slower, and the signage allowed is intended to capture the attention of both automobiles and pedestrians. The Neighborhood Commercial Zones have slower traffic and the signs can be smaller in scale to target pedestrians. Residential zones have the most restrictive sign standards.

Ms. Satter emphasized that State law requires that the sign code regulations must be content neutral and not based on what a sign says. Because the City's current sign code is based on zoning, rather than content, not a lot of changes are needed to address the legal requirements. However, there are opportunities to improve the code based on recent case law. She reviewed the following proposed changes:

- **BMC 20.42 – Definitions.** Mobile or portable signage is becoming more prevalent in the City and a new definition would be added for “portable signs.”
- **BMC 20.52.040 – Exempt Signs.** While real estate and temporary on-site construction signs would still be allowed as an exempt activity not requiring a permit, the language in this section would be revised to be more generalized and content neutral. “Political signs” would be renamed “noncommercial speech signs.”
- **BMC 20.52.050 – Prohibited Signs.** The current code prohibits moving, flashing and animated signs, but it allows for readerboard signs. Currently, readerboard signs can change copy every 2 seconds. At a previous discussion, the Commission requested that staff provide examples of how other cities address readerboard signs. Based on this information, staff is proposing that the time be changed to every 8 seconds. Ms Satter emphasized that all zones allow for readerboard signs, but they cannot be animated.
- **BMC 20.52.070 – Sign Placement Requirements.** The current code has an exemption for signs erected by the City for a public event. To make the code more content neutral, staff is proposing more general language to read, “temporary banner signs erected by the City are exempt from a permit.”
- **BMC 20.52.085 – Political Signs.** This section also needs to be revised to be more content neutral. “Political signs” would be renamed “noncommercial speech signs.” In addition, the language that requires removal of signs after an event would be eliminated. She clarified that commercial signs would have to follow the provisions for temporary signs or commercial signs. Noncommercial signs would be a separate category with specific size limitations.

Commissioner Goodnow asked if there would still be a limit on the length of time a noncommercial speech sign could stay up. Ms. Satter said staff is not proposing a time limitation. She explained that case law makes it clear that limiting the length of time can be problematic if it is based on the type of noncommercial sign. However, the time could be limited similar to how temporary signs are regulated (60 days up, 90 days down). Commissioner Goodnow voiced concern that temporary signs could use the noncommercial speech sign code provision to avoid the time limitation. Ms. Satter responded that commercial speech signs would not qualify. Commissioner Goodnow noted that the only way to determine if a sign is commercial or noncommercial is to read it, which means that the code would still be content based. Ms. Satter recognized this could be a problem and it would likely be determined based on the use of the site. Commissioner Goodnow suggested that the provisions related to noncommercial speech signs could be moved to the section on temporary signs.

- **BMC 20.52.090 – General Signs.** A provision was added to this section to address illumination. Currently, the code is silent, other than language in a different section of the code that prohibits light from protruding beyond the property line, and the idea of signage is to get the message beyond the property line. The language talks about what is undue brightness and includes a provision for nighttime adjustments.
- **BMC 20.52.100 – Commercial District Signs.** Staff is proposing that “shopping center” signs be renamed “large multiple occupant development” signs. In addition, the “co-op” sign provisions were reworked. The intent of the co-op sign provisions is to allow properties along Wheaton and Kitsap Way that do not have street frontage an opportunity for signage, while still limiting the number of signs on the roadway. To incentivize the concept, staff is proposing that 15-foot-tall signs would still be allowed along Kitsap and Wheaton Way, but consolidated signage would be allowed additional square footage (up to 100 square feet). In addition, a provision was added to allow a property three parcels back from the street to consolidate on the fronting sign, and the sign could be up to 125 square feet. In exchange, the properties would transfer their development rights of their property to the parcel where the sign would be installed, but directional signs and wall signs on the buildings would still be allowed. The intent of

the provision is to encourage the removal of multiple signage and reduce the visual clutter on Wheaton and Kitsap Way. It also provides opportunity for businesses to advertise on busy street frontages.

Commissioner Nerf asked if the increase in square footage for sign consolidation would be per business. **Ms. Satter** explained that all properties on Kitsap Way and Wheaton Way get an automatic sign height of 15 feet, which is consistent with Kitsap County. However, as currently written, the provision only applies to co-op signs. Staff believes it is appropriate to allow 15-foot signs on all properties along Kitsap Way and Wheaton Way, and the additional square footage would serve as an incentive for businesses to consolidate signage. For example, the fronting parcel would get 60 square feet of sign area, and adding a second sign for an adjacent property would increase the sign area to a total of 100 square feet (not 100 square feet per business). Adding signs for additional properties would increase the sign area up to a maximum of 125 square feet.

While he can see the back businesses having an interest in getting advertising on the street, **Commissioner Nerf** asked what the incentive might be for street-front businesses to want to consolidate. **Ms. Satter** noted that a larger sign would be allowed. She explained that there would have to be a formal agreement recorded as a Notice to Title, and it would be up to the fronting property owner to decide how he/she wants to lease their space.

Ms. Satter said staff reviewed the width of the typical parcel along Wheaton and Kitsap Ways to determine which parcels may be good candidates for participation in the co-op signage program. Based on this review, staff is recommending that a parcel width of 75 feet would be more appropriate than the current 100-feet. Many of the properties were slightly less than 100 feet wide. In addition, the co-op sign provision was expanded to include parcels within a certain distance rather than limiting the option to adjacent properties only.

- **BMC 20.52.110 – Auto Dealership Signs.** Since the use of auto dealerships is only allowed within the Freeway Corridor zone, Staff is proposing that this section be removed. However, the amendment would offset the potential impacts to businesses within the Freeway Corridor Zone by increasing the maximum size of the sign from 100 square feet to 150 square feet. This is consistent with the permitting of signage for auto dealerships as their businesses are typically three or less franchise, which would allow a maximum of 150 square feet. As proposed, Figure 20.52(a) would be revised to increase the maximum sign area for freestanding signs in the Freeway Corridor Zone to a maximum of 150 square feet. Staff reviewed all of the sign applications that have come to the City since 2005 for auto dealerships, and none have requested more than 3 signs and none have requested to utilize more than the maximum 150 square feet.
- **BMC 20.52.120 – Residential District Signs.** Staff is proposing to remove “multiple-family development” signs and revise this portion of the code to be more content neutral. The revision treats all residential development (subdivision or apartment complex) the same. As proposed, all residential development would be allowed up to 50 square feet for an identification sign, and individual properties would be allowed up to two square feet of signage. Every residential property would also be allowed to have a temporary sign of up to 32 square feet.

Commissioner Nerf asked how the residential signs would be measured. **Ms. Satter** answered that the sign area calculation would not include the pillars on which the sign is attached. She referred to another section of the code, which addresses sign measurement. Currently, sign area is calculated by measuring around the words/message. The intent is to incentivize architectural appendages because they look nice.

- **SMC 20.52.180 – Nonconforming Signs.** The current nonconforming sign code provisions were last updated in 2014 and are working well. However, staff is recommending that the language be modified to make on-premise and off-premise signs consistent. As currently written, if a business does more than \$50,000 of remodel work, on-premise signs must be brought into compliance with the code. As proposed, the same provision would also now apply to off-premise signs. In addition, a provision was added to address incidents that are beyond the owner and/or tenant’s control.
- **BMC Figure 20.52(a) – Zone Specific Size and Design Requirements.** The figure was revised to consolidate where appropriate. Staff also added a reference to the Puget Sound Industrial Center – Bremerton (PSIC-B) consistent with the Subarea Plan. Footnote 3 was revised to allow all commercial signs along Wheaton and Kitsap

Way to increase their sign height to 15 feet. Previously the provision was only applicable to co-op signs. As revised, it would apply to all businesses that have direct access to Wheaton or Kitsap Way. Footnote 4 was added to state that co-op signage would be allowed an increase in sign area.

Ms. Satter encouraged the Commissioners to consider public testimony and provide direction to staff to prepare for the upcoming public hearing on September 20th. She announced that, at the Commission's request, an on-going Zoning Code Amendment website (www.ci.bremerton.wa or www.bremerton.wa.gov) was created to allow the public access to the proposed amendments.

No one in the audience indicated a desire to comment during this portion of the meeting.

Vice Chair Nethery asked why staff is recommending removal of the time provision for noncommercial speech signs. **Ms. Purves** explained that one of the problems is that, currently, the length of time a sign can be up depends on the type of sign. For example, political signs must be removed 14 days after an election. The concern is that the restriction is content based. The Supreme Court has cautioned against codes that appear to place more value on one type of noncommercial message over another.

Commissioner Goodnow asked if the City can establish a time limit on noncommercial speech signs that are placed in the rights-of-way. **Director Spencer** said the zoning code is not intended to regulate the public rights-of-way. There are separate right-way standards in the Public Works Provisions in the BMC. The sign code provisions in BMC 20.52 apply only to signs displayed on private property. **Ms. Purves** said the intent is to avoid regulating the content of signs on private properties, including noncommercial signs allowed in residential districts.

Commissioner Tift noted that the hillside at the intersection of 11th Street and Kitsap Way is a popular site for political signs and is part of the City's right-of-way. He asked if the City or candidate removes the signs from this area following an election. **Ms. Satter** answered that the Public Works Department removes signage within the public rights-of-way, and it can be done without notification. **Commissioner Tift** summarized that, as currently proposed, a political or other type of noncommercial sign could remain on a private property indefinitely.

Commissioner Goodnow asked about other alternatives for limiting the time that temporary signs can be out on private property. **Ms. Purves** said it is difficult to say that certain signs can be out for longer periods than others types of signs. Some cities have tried to limit temporary signs based on material, which can also be problematic. **Ms. Satter** added that some cities have required a permit for every sign in order to establish timelines. A sticker could be placed on the sign to indicate the date it was installed and when the time limit expires. However, this concept would take extra administration, as well as time for each property owner to apply for a permit. **Ms. Purves** cautioned that the intent is to get away from a content-based regulation that requires the City to make a judgement call as to whether one message is preferable or more acceptable than another.

Commissioner Goodnow asked about the maximum size limit for noncommercial speech signs in Single-Family Residential Zones. **Ms. Satter** answered that each single-family property is allowed a 2 square foot sign for home occupations, etc. In addition, noncommercial speech signs are allowed up to 32 square feet and may not extend beyond six feet above the grade. She clarified that no changes have been proposed to the sign area allowed in residential zones. The only change is to eliminate the requirement that political signs must be removed 14 days after an election.

Commissioner Goodnow said he has put up temporary signs in public rights-of-way to advertise community fundraising events. He questioned if it would be possible to regulate noncommercial signs based on the type of event. **Ms. Satter** acknowledged that some public events are not commercially related, and a provision was added to allow advertising for public events to be considered noncommercial speech signs. **Ms. Purves** explained that the reason for making a distinction between commercial and noncommercial signs is that the courts have started to do it. She referred to a law review article published in May that looked at what circuit courts were doing with the decision. Although the Supreme Court's Reed vs. Gilbert, AZ decision did not, there is a long body of case law that clearly makes the distinction. Noncommercial speech is more in line with ideological views and free speech and first amendment protections, so making the distinction between commercial and noncommercial is a little more risky than other types of content based code.

Chair Wofford asked if there are any long-standing noncommercial speech signs that the staff is aware of in the City. **Ms. Satter** said she can think of several that are made of durable materials and have been up for years. **Ms. Purves** said common ones are environmental conservation and stormwater runoff signs that people put in their yards. Rather than being event related, they are considered noncommercial speech signs.

Commissioner Tift referred to a “no parking” sign that a resident placed in the front yard to address the problem of people parking in front of the home. He asked if this type of sign would be allowed. **Director Spencer** said it would be allowed from a sign code standpoint, but citizens cannot regulate the public rights-of-way by using signs on their properties.

Commissioner Tift referred to staff’s recommendation that the time interval for changing the copy on readerboard signs be increased from 2 seconds to 8 seconds. He agreed that 2 seconds is a little short, but 8 seems too long. **Ms. Satter** said the proposed 8 second requirement would be consistent with Kitsap County, as well as fall within the range allowed by other jurisdictions that were surveyed. She explained that the longer time requirement is intended to address concerns about distractions to drivers. **Commissioner Tift** suggested that it would be appropriate to incorporate the term “equal to or greater than 2 seconds.”

Commissioner Tift said he supports the current provision for regulating auto dealership signs. He asked if the proposed amendment to BMC 20.52.110 would limit the dealerships’ options. **Ms. Satter** answered no based on examples of sign applications received over the past 10 years. There has never been a request for more than three signs, and 150 square feet is a lot of sign area that can accommodate a number of franchise signs. **Commissioner Tift** specifically referred to the Westhill Ford sign, which appears to be billboard size. **Ms. Satter** agreed to verify the size of the sign and report back to the Commission. **Director Spencer** said it is important to understand that the proposed amendment would actually expand the provision by allowing every user in the Freeway Corridor Zone to have larger signs. Currently, the provision is only available to auto dealerships. **Commissioner Tift** asked if the proposed amendment to BMC 20.52.110 would only apply to businesses that front the freeway. **Ms. Satter** answered that it would apply to all properties within the Freeway Corridor Zone. However, specific height limitations would apply.

Commissioner Tift noted that the proposed amendments cross out a lot of the existing language. **Ms. Satter** said most of the crossed-out language is a result of reworking the co-op sign provisions. The changes were based on public comment and the desire to incentivize the concept and open the provision for more businesses to utilize.

Director Spencer summarized that the Commission will not have a meeting in August. The code, as currently written, will be published for public comment during the month of August. A public hearing has tentatively been scheduled for September 20th.

Chair Wofford closed the public workshop.

BUSINESS MEETING

Chair Report

Chair Wofford advised that there is still a vacant position on the Commission. **Director Spencer** said she will interview potential candidates the 1st week of August.

Director Report

Director Spencer reminded the Commission that the City changed its Community Development Block Grant Program in 2015 to create a more targeted approach for allocation. The review process is different, in that the City put out a request for proposals for projects within the target area of downtown. They are seeking a member of the Planning Commission to sit on the committee that reviews the proposals. She referred to the time schedule, acknowledging it will require a significant time commitment. The City Council will appoint the delegates to the Project Review Committee in August, so having a selected candidate now would be ideal. A training date is scheduled for September 12th, and staff will deliver the applications to the committee members on September 23rd. The interviews with applicants will take place on September 26th and 27th. The final recommendation to the City Council is targeted for September 28th.

Approved

Chair Wofford recalled that he served on the committee in 2015 and found it interesting. However, he is not available to participate this year. There were no volunteers. Commissioners were asked to consider the opportunity and notify staff by July 22nd of their desire to participate.

Director Spencer reminded the Commissioners that their August meeting was cancelled. The next regular meeting will be September 20th.

Old Business

There was no old business to come before the Commission.

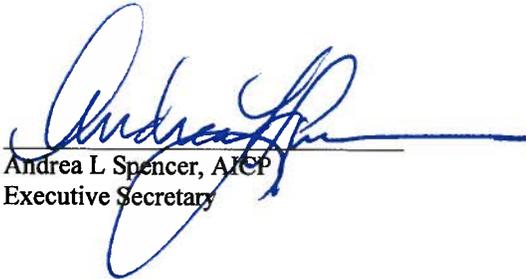
New Business

Commissioner Tift said he is always impressed with the quality of the minutes.

ADJOURNMENT

The meeting was adjourned at 6:22 p.m.

Respectively Submitted by:



Andrea L. Spencer, AICP
Executive Secretary



Stuart Nethery, Vice-Chair
Planning Commission

Approved