



PLANNING COMMISSION

June 8, 2021

FINAL MINUTES

I. CALL TO ORDER

Chair Judi Roland called the meeting to order at 7:01 p.m. via Zoom due to Governor Inslee's Healthy Washington – Roadmap to Recovery initiative and the Governor's Emergency Proclamation 20-28 due to the Covid-19 Pandemic which establishes the official meeting place, as virtual.

a.) ROLL CALL/ESTABLISHMENT OF QUORUM

Commissioners present: Chair Roland, Vice-Chair Lee, Commissioner Stephens, Commissioner Moutzouris, Commissioner Khanal.

Commissioner Mason was excused.

Staff present: Planning Services Manager Jeff Dixon; Doug Ruth, Assistant City Attorney; Planner II, Alexandria Teague; Administrative Assistant Jennifer Oliver.

Members of the public present:

b.) PLEDGE OF ALLEGIANCE

II. APPROVAL OF MINUTES

A. May 18, 2021 – Regular Meeting Minutes

Vice Chair Lee moved, and Commissioner Stephens seconded to approve the minutes from the May 18, 2021, meeting as written.

MOTION CARRIED UNANIMOUSLY. 5-0

III. PUBLIC HEARING

There was no public hearing scheduled for this meeting.

IV. OTHER BUSINESS

A. Portable Sign Code Text Amendment

Amend Title 18 (Zoning Code) and Downtown Urban Center Design (DUC) Standards related to portable signs (City File No.: ZOA20-0003).

Alexandria Teague, Planner II presented to the Planning Commission the revisions proposed for Chapters 18.29, "DUC Downtown Urban Center District" Auburn City Code (ACC) and Chapter 18.56, "Signs" ACC of Title 18 (the Zoning Code), and the "Sign Design" portion of the Downtown Urban Center Design Standards.

Ms. Teague explained where the proposed code change would take effect in the downtown DUC (Downtown Urban Center) by presenting a map to the Planning Commission. Staff has been working with the DAC (Downtown Auburn Co-operative, formerly the Auburn Downtown Association) and two local sign companies to create the proposed changes. Established in 1988, the DAC helps strengthen and support businesses downtown.

The Planning Commission packet highlighted the strikethrough and underlines for the code revisions and amendments.

Chapter 18.29 "DUC Downtown Urban Center" ACC

Section ACC 18.29.060(I)(4)

Section ACC 18.29.060 contains the standards for portable signs in the DUC zoning district. The purpose of this code revision is to foster consistency in the use of portable signs in the DUC zoning district. Previously the City allowed temporary signs, including portable signs, throughout the city (not just within the DUC zoning district). The temporary sign provisions contained in Chapter 18.56 ACC "Signs" sunsetted in 2016. Prior to the sunset of the code the city had a program for a no fee sign permit for temporary signs. The purpose of the no fee sign permit was to encourage their compliance with City code. After the temporary sign provisions of Chapter 18.56 ACC sunsetted, the no fee sign permit for temporary signs ended as well. Portable signs, however, are still allowed in the DUC zoning district because Chapter 18.29 ACC "DUC Downtown Urban Center", still contains provisions for portable signs. Since 2016 there has been a proliferation in noncompliant portable signs – noncompliant in the number, placement, and size of signs. The changes proposed in the section are intended to: 1) clarify the number of signs allowed, 2) to define where and how a sign can be placed, 3) what sign materials are allowed, and 4) provide the maximum size of portable signs.

Chapter 18.56 "Signs" ACC

Section ACC 18.56.030(I)(2)

The purpose of amending Section ACC 18.56.030 is to clarify that portable sign are not prohibited in the DUC zoning district. While this is already understood in implementation of the code, it needs to be explicitly stated in code.

DUC Design Standards

Sign Design

The purpose of amending the DUC Design Standards is to create a new set of design standards related to portable signs. Notably, portable signs are the only types of signs allowed in the DUC that do not have design standards. The proposed design standards

are intended ensure that portable signs are well made, durable, stylish, and contribute to the overall character of the downtown.

Staff concluded the presentation and remarked that if the Planning Commission believes that the changes are ready to proceed, Staff will move forward with noticing for and scheduling a public hearing.

The Planning Commission asked if these proposed changes were on par with other cities or is Auburn unique with certain requirements. Alexandria Teague, Planner II commented that not that Auburn was not unique with certain requirements. Staff looked through a number of different jurisdictions such as Kent, Renton, and some cities in California to see what standards they use, and Auburn's proposed portable sign regulations were typical sign standards. Also, City Staff worked with the DAC and the local sign companies to ensure their perspectives were considered and to make them specific to Auburn as well.

The Commission inquired what will happen to the business signs that are being used now that do not meet the code requirements. They also asked about if a new business moves into town that already has a sign and it doesn't meet the requirement, what would happen. The concern from the Commission is that businesses are struggling financially right now due to the pandemic and incurring additional cost is a concern. Will the business' have a certain amount of time to change the sign to meet the new codes requirements. Staff commented that staff will work with direction from the Director of Community Development and City Council on how we want to address any existing signs that are non-compliant. Staff said there are likely signs out there now that are non-compliant and it comes down to talking, educating and working with businesses on being compliant. The approach that will be taken is educate first to gain compliance, and enforcement later. Also, as a separate effort, but to address the concern the city staff is working on a portable sign program with DAC to financially assist businesses with cost of portable signs. The program's intent is to provide funds to downtown businesses to help acquire new signs that meet code.

The Commissioners asked why portable the signs are only being used in only the downtown area and not in other areas of the city. Staff responded that in the past, portable signs were allowed only as a temporary sign. Then the city changed the code to institute a portable sign program in response to the economic recession that we had and to give more opportunity for different kinds of signage to help businesses. This allowed portable signs in additional areas. This no fee portable sign program was extended by the City Council a couple of times until the program sun-setted in 2016. Ms. Teague commented that while there are other commercial areas in the city that are zoned C3 which is heavily auto oriented commercial areas, it makes sense to have the portable sign code focus on downtown which is more pedestrian oriented. The 'A' frame signs fit into the nature of people walking and observing the signs in the downtown area. The Commission asked if portable signs could be placed at either entrance if the business had two, such as a front door and a rear alley door and Staff replied that yes it can be placed at both locations, if the sign doesn't result in other conflicts.

The Planning Commission inquired on enforcement and penalty of the signage and whether penalties would be issued if the signs are not up to code. The Commissioners also asked if enforcement would take place in other areas of the city where businesses are not following guidelines and if we have the resources for enforcement. Staff commented that the enforcement falls heavily on the City of Auburn Code Compliance Team who is responsible to enforce the signage regulations throughout all of Auburn, not just in the downtown area. Staff clarified that Code Compliance, is generally complaint driven and the Planning Department are not out looking for code violations. Typically, Code Compliance issues are brought to us from citizens calling it in or by a permit being issued. The downtown area signs are noticed more because of Staff working in the downtown area. Staff explained that the sign program and the code changes that are being proposed go hand in hand. Staff doesn't want to take an heavy-handed enforcement approach but rather if a business has a sign needing an update, communicate that to the business but also explain the associated new sign program will assist in helping pay for qualifying new signs. The Planning Commission voiced concerned that enforcement needs to be fair to each business regardless of if they are located in the downtown area or other parts of the city with the sign code compliance. Staff will discuss how to move forward with the noncompliance signs with the director of Community Development and possibly, the City Council.

Assistant City Attorney, Doug Ruth addressed the Commission regarding the enforcement of the signs. Enforcement for the sign code would be under the general enforcement code which provides an infraction if a code violation occurs. If there wasn't voluntary compliance, then the enforcement would be under some time of penalty that could be per day or by incident. Mr. Ruth continued that, as Alex had mentioned early, the City generally tries to work with property owners to gain voluntary compliance. As to a disproportionate enforcement, the enforcement on one individual over another, though they both maybe out of compliance, is not by itself an indication of discriminatory enforcement. The law recognizes that the city, county or any public agency can't take action against all violators simultaneously. If there is other evidence that the city repeatedly goes after a company and the infractions are only in one area of the city, then that would be cause for concern and investigation. The imposing of infraction, impoundment or penalty on one violator and not the other wouldn't be basis for invalidating that penalty in and of itself. The Planning Commission thanked Mr. Ruth for the clarification.

The Commission asked staff what the process was to get an approved sign permit and what is the average cost for manufacturing an A Frame sign. Staff responded that the cost of signs may range from \$200 to \$500, depending on what type of materials are used. Staff does not collect information on or evaluate sign costs. The design standards have to be met and City Staff doesn't have much say in the price. The no fee sign permit process is not determined yet and staff is working through that, however the process for any other sign in the DUC (Downtown Urban Center) would consists of an application submitted to the permit center along with a rendering of what the sign would look like such as size, details, materials used to make it and the proposed location of the sign. Staff will review, and once it is approved there is a sticker that is issued, and that sticker is placed on the inside of the sign showing approval and up to code. The Commission commented that older signs should possibly be grandfathered in and this could possibly written into the code to avoid any conflict with businesses feeling as if they were being

picked on while others were not relating to their signs being up to code or not. Staff responded that the term “grandfather” or “grandfathering” means something that was legally established and allowed to continue even though it does not meet current regulations. It is hard to know if something was legally established, if the City never required a sign permit for it. Chair Roland mentioned a grace period might be an idea. Staff commented that the guidance for compliant and non-compliant signs will be discussed internally with the Director of Community Development and possibly City Council on how to move forward. Planning Services Manager, Jeff Dixon added that there essentially has been a grace period since the portable code sun-setted in 2016. Mr. Dixon continued that the program has been developed with the Downtown Auburn Cooperative. It’s an affiliation of downtown businesses that assess themselves to raise funds for activities or advertising to support downtown. They have been part of the development of the program and can work with individuals’ businesses as well to provide information about the new sign’s guidelines. Staff commented that because under the proposed regulations the signs are larger, they are more likely to not have circumstances where the signs do not comply due to size. The increased size limits can potentially bring more signs into compliance. Some of the existing signs have not had the best maintenance over time. With new buildings coming up in the downtown area, renewed interest in vitality, Staff wants to bring the signage program along and make sure that those businesses with signs are putting their best foot forward.

The Commission asked who was liable if a pedestrian were to trip and hurt themselves over a sign out in front of a business. Could they sue the business or the city? Staff commented that code states that the signs cannot be a pedestrian or vehicle hazard and that will not change. Assistant City Attorney Doug Ruth commented that the liability for the sidewalk would be with the property owner. If the injured were to prove that the regulations by the City played a part in the injury, then possibly the City would be exposed. However, the initial liability would be with the property owner.

The Planning Commission inquired about the code that states signs are to be within 12 feet of a business entrance and does that mean the sign is for that particular business. Such as another business cannot advertise in front of the other competing business entrance. The Commission commented that maybe the code should refer to “the” business and not “A” business to be more specific. Staff commented that part of the reason for the distance requirements is to keep it within proximity of the entrance and because a business owner may have it displayed only when the business is open, it is easy for them to pick it up or place it out during their business hours. Additionally, the city had some circumstances where businesses were located mid-block or located at one end of the street, but it was a busier at the other end of the street and they would place their sign on the corner along with numerous other signs on the same street or intersection. Staff is trying to avoid that scenario by having the 12-foot placement from the business entrance in the code.

The Commission asked if food trucks apply for the 12-foot entrance. Staff answered not too many food trucks reside in Auburn. It would interpret as the same thing as a store front and kept within that 12-foot code. Staff commented that it is a unique situation that staff would work through if that were to come up.

Staff concluded the presentation and questions with the Commission. Staff requested to move forward with a Public Hearing. Staff will send out the public notice for comment from the public and businesses. Ms. Teague stated that she would like to have the sign companies possibly attend the public hearing as well as a representative from the DAC (Downtown Auburn Cooperative). The Commission asked when the public hearing will be. Staff replied that it would be July or August. The Commission commented that it would be nice if a business who has gone through the new sign program came to the meeting and speak about it. The exact month for the hearing would be determined by how much progress Staff can make with the new code, the new sign program, and questions or comments that arise with the public comment and public hearing noticing.

B. Continued Discussion of Planning Commission Rules of Procedure.

This topic has been brought back for the Commission's consideration and potential action, the changes were discussed at the February and May meetings.

The Planning Commission's (PC) Rules of Procedure were last amended on March 3, 2020. Annually, the Planning Commission reviews the Planning Commission Rules of Procedure as a content reminder and to consider any modifications.

Prior to the Commission's February 2, 2021 meeting, the Community Development (Planning Services) and Legal Dept. staff reviewed the latest adopted Rules of Procedure document and recommended a minor change. The amendment shown in strike-through (deletions), and underline (additions) was distributed in advance of the meeting.

First suggested update: The first recommended revision which was discussed at the PC February 2, 2021 meeting and May 18, 2021 meeting, is to Section XIII and permits the Commission to suspend rules of procedure in response to special circumstances. The recommendation is in response to the changes in how meetings are conducted during the pandemic and is intended to give the Commission more flexibility in its procedures. The revision allows Commissioners by a two-thirds vote to suspend a rule of procedure. This authority does not apply to rules required by statute and is also limited by Roberts Rules of Order.

Second suggested Update: This was discussed at the February 2, 2021 and May 18, 2021 meeting to remedy an inconsistency in the Rules. The inconsistency is whether the Chair's silence on a vote is recorded in the affirmative or negative. Mr. Ruth reminded the Commission that last year, the Rules were amended to make a silent vote, a negative vote for all Commissioners. This was based upon the idea if you did not hear a vote, the Commission should not be adopting or changing something in a policy or decision based on silence. The conservative approach would be to consider it a "no vote".

Staff suggests a provision in section IV.1 regarding the chair's vote be eliminated. This deletion is recommended to make section IV.1 consistent with changes in section X.10. Currently, section IV.1 reads that the Chair's vote shall be considered an affirmative vote unless stated otherwise. This is inconsistent with the prior revision.

Third Suggested Update: This was discussed at the February 2, 2021 and May 18, 2021 meeting that with conducting meetings virtually, each commissioner's vote may not be heard. The Commission requested the rules be updated to reflect the circumstances of virtual meetings and to address the possible technical difficulties such as a microphone failure. A revision to Section X.10 addresses this possibility by permitting votes by electronic communication such as virtual hand raising (symbol) or a chat message.

Conclusion

Transmitted is a version of the rules with the changes described above. If the Planning Commission is satisfied, they can vote to approve. If the Planning Commission has additional changes, these can be discussed, captured by staff, and then these changes can be presented in writing and provided at the next regular meeting. The amendments must be provided at a meeting prior to action (voting) as provided in Section XIII, "Amendment", which says:

"The Rules of Procedure may be amended at any regular meeting of the Commission by a majority vote of the entire membership. The proposed amendment should be presented in writing at a preceding regular meeting."

Planning Commissioner Vice Chair Lee moved, and Commissioner Stephens seconded to adopt the revisions to the Planning Commission Rules of Procedure.

MOTION CARRIED UNANIMOUSLY. 5-0

V. COMMUNITY DEVELOPMENT REPORT

Planning Services Manager, Jeff Dixon reported that Staff will start returning to the office on July 6, 2021. Staff will gradually come back two days a week in July, three days a week in August and then more fully returning in September.

Mr. Dixon continued that during July and August City Council will start transitioning from virtual meetings to in-person meetings. There may be some hybrid; where there is a little bit of both virtual and in-person which presents some technology challenges as some Council members would be in the Council Chambers and members of the public could be in-person or virtual. The challenges that arise with that are how do the in-person attendees interact and answer questions with someone who is participating virtually. City Council has agreed to be the test meetings on how to work through those issues. Planning Commission would likely meet in-person again come September after the challenges are worked through with Council Meetings.

Mr. Dixon informed the Commission that the city announced and advertised that applications for Comprehensive Plan Amendments would be accepted up through June 4, 2021, and the city did not receive any private applications. This will allow staff to focus

on code clean-up and other City initiated changes. As Staff has done in prior years, they would bring to the Planning Commission a proposed slate or docket of changes and share that with the Commission, and to ask if there are any items that the Commission wants to put forward as potential annual Comprehensive Plan amendments in terms of either map or text changes. Staff will be working through that for one of the upcoming Planning Commission Meetings.

Mr. Dixon stated he wanted to follow up with a question the Commission had inquired about at the last meeting. The question was how is the city choosing to use the Covid relief funds the city receives from the federal government. . At the moment, the has not received these. However, City Council is just starting to initiate discussions on how to distribute or spend the money as there are a lot of strings that come with the money such as what is eligible to spend the funds on and what is not. Mr. Dixon mentioned to the Commission to look for upcoming special city council meetings and possibly even a City Town Hall discussion regarding the use of these funds.

Staff mentioned that topics for future Planning Commission meetings this year will consist of airport code updates, Annual Comp Plan Amendments, as well as a presentation from the City's Senior Traffic Engineer, James Webb in response to a request by the Commission. The presentation will consist of traffic impact analysis, how the city approaches traffic analysis, and what the City's standards are.

The next Planning Commission Meeting will be held on Wednesday, July 7, 2021. It is on Wednesday due to the holiday on Monday and city council meeting being moved to Tuesday.

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 8:16 p.m.