



**TO:** Longview Planning Commission

**FROM:** Steve Langdon, Planning Manager

**HEARING**

**DATE:** April 4, 2012

**SUBJECT: CASE NUMBER PC 2012-1: Zoning Code Amendment to allow electronic changeable copy signs in the Downtown Commerce District.**

**TYPE OF DECISION:** Legislative

**BACKGROUND AND PROPOSAL**

For the last few months, the City's Downtown Advisory Committee (DAC) has been considering proposed amendments to the Downtown Commerce (D-C) District that would allow changeable copy electronic signs in the D-C district. At their March 13, 2012 meeting, the DAC recommended the following language be added to the sign code portion of the D-C district.

**19.46.060 Signs, Downtown Commerce District (D-C)**

The following signs, when displayed in accordance with this section, are allowed within the downtown commerce (D-C) district.

(2) Types of Permanent Signage Permitted.

(k) Window Signs.

(i) Maximum number of signs permitted: The number of signs will be limited by the total aggregate sign area permitted.

(ii) Maximum coverage of window: Signs shall not exceed a maximum of 25 percent of the glass area, per window.

(iii) Additional requirements: Neon signs within windows and glass doors shall be permitted. Non-illuminated letterboard signs shall be permitted (see definitions section). Window signs may be separately illuminated. No permit shall be required for window signs.

(iv) One electronic changeable copy sign is allowed in the Downtown Commerce District for businesses with a ground floor store front. Such sign is subject to the following conditions:

1. The changeable copy sign shall be an interior sign located in a storefront window. The sign shall not be attached to the outside of a building.
2. To ensure the changeable copy sign does not provide a detrimental vehicle traffic distraction, the location of the sign shall be approved, in writing, by the Community Development Director or his/her designee. This approval shall be made after conferring with the City Engineer and/or Traffic Engineer and the Police Department.
3. The sign shall primarily be oriented towards pedestrian traffic instead of vehicle traffic.
4. The moveable copy portion (screen size) can be no more than 12.6 square feet in size (60" screen).

Under the proposed amendment, television, scrolling light and LED matrix displays are examples of the types of signs that would be allowed. Jim McNamara, City Attorney has reviewed the draft text. He believes that the language in subparagraph 2 about City staff approving the location of the sign is too subjective and would not stand up to legal challenge.

The proposed amendment would be to the Commercial Code Update that is still under review. Since, the Commercial Code Update calls for Chapter 19.52 Downtown Commerce District to be repealed it does not make sense to process an amendment to it. The subject amendment can be processed at the same time or slightly lagging the Commercial Code Update.

At their March 7, 2012 regular meeting, the Planning Commission scheduled a public hearing on the matter for their April 4, 2012 regular meeting.

#### S.E.P.A. Determination

An Environmental Checklist for the proposed zoning code revision was reviewed pursuant to the State Environmental Policy Act and a determination of non-significance was issued on March 21, 2012. [E 2012-3 SEPA checklist] The comment period for the SEPA checklist ends on April 4, 2012. SEPA documents are attached as Exhibit A.

#### Additional Information

Pursuant to Chapter 19.81 of the Longview Municipal Code, a legal notice was published in the Longview Daily News on March 25, 2012 and on April 1, 2012.

#### Citizen Correspondence

As of this writing, the City has received no written comments.

### **Comprehensive Plan Goal and Policies**

#### Goal LU-C

To ensure that development in the City is of high quality of design, and is serviced by a safe and convenient pedestrian, bicycle, and vehicular circulation system with adequate parking, landscaping, screening and signs that are in scale and complement a district's character.

#### Policy LU-C.2.9

Allow signage that provides for business visibility while enhancing the visual character and impact of the City.

#### Policy ED-C.1.4

Apply landscaping, access, and signage regulations to commercial and mixed-use developments in the City to ensure noticeable, attractive visual appeal. Consider perimeter and parking lot landscaping, consolidated access points and linked parking areas, and sign sizes based on pedestrian as well as auto orientation.

### **RELEVANT CODE SECTIONS**

Longview Municipal Code Chapter 19.81 specifies the procedure, initiation process and hearing and notice requirements related to proposed amendments for Title 19. The "procedure" clause is included below:

#### **19.81.010 Procedure.**

In accordance with RCW 35A.63.100 the city council may, pursuant to public hearing called by it upon application therefor by any interested party or upon its own order, amend, supplement or modify this title or any part thereof, including the classifications shown on the use district maps which are a part of this title; provided, however, all proposed amendments, supplementation, or modifications shall first be heard by the planning commission and the decision of the planning commission thereon shall be made and reported by said commission to the city council within 90 days of the time that the proposed amendments, supplementations, or modifications were first submitted to the planning commission.

#### **19.81.030 Initiation by planning commission – Procedure.**

The planning commission, by affirmative vote of a majority of the entire membership of the commission, may initiate any proposal for amending, supplementing or modifying the provisions of this title. In such event, the planning commission shall proceed to call for a public hearing, in the manner hereinafter provided, on said proposal and shall submit to the city council a written report of its decision on said proposal after such public hearing but within 90 days from the time such proposal was first initiated by said planning commission in the manner aforesaid.

## **STAFF DISCUSSION**

“A picture is worth a thousand words” is how the saying goes. Thus, a constantly changing picture should be worth millions of words. The proposed amendment would allow a business to locate a TV for instance in their store front window and show passerby’s examples of their product’s and/or service. A beautician might show examples of their hair styling, an interior decorator might show examples of rooms they have done, and a collectables store might show featured products and so on. This can be an effective advertising medium.

However, there are drawbacks. Because of free speech protections that are included in Federal and State constitutions, government has very limited ability to regulate the content of a sign. Thus, if a business chooses to run a display that community members might find distasteful or even obscene, the City may not be able to stop it. Of course, a business can display such material in the form of posters and such now. However, a changeable copy electronic sign with its movement may provide more of an impact.

Although the Downtown Commerce District is not a historic district, there are buildings downtown that are on the local, state and/or federal historic registers. A modern changeable copy electronic sign may clash with the historical nature of those buildings. These types of signs located in a multitude of store front windows may clash with the overall ambiance of the Downtown Commerce District.

In the above text, I use the example of a TV in a storefront window. However, other types of changeable copy electronic signs would be allowed under the proposed amendment. Other types of signs include scrolling signs and LED matrix signs. These types of signs can be very bright and can be programmed to flash or strobe. Of course, TV’s can be programmed to flash or strode also. However, TV’s are not typically as bright as other changeable copy electric signs such as those comprised of individual LED lights arrayed in a matrix. These brighter displays may be distracting to drivers.

One final caution, once this door is open; it is very difficult to close. If this amendment is adopted, businesses will make investments (buying and installing the signs) based upon the new sign standards. To come along later and determine that the new standards are not working and then changing the code back to what it is now, could make those investments basically worthless. This opens the City to challenges based upon a “taking” without compensation. Also, by adopting this amendment, the City is making a statement that the new code is basically safe (non-distracting for traffic) and aesthetically in character with the district. If the City wanted to rescind the new standards, if challenged, it would be the burden of City to demonstrate to a court of law that the signs are causing a hazard and/or not in character with the neighborhood. Case law shows that this can be difficult.

Comprehensive Plan Policy LU-C.2.9 reads as follows: “Allow signage that provides for business visibility while enhancing the visual character and impact of the City.” Because of the drawbacks discussed above, I am concerned that this proposal will not “...enhance the visual character and impact of the City.” I believe this type of change should be carefully evaluated as part of a comprehensive review of the sign code. Thus, I am not recommending approval of the amendment.

If the Planning Commission decides to recommend approval, I suggest that the “subjective” language in subparagraph 2 be altered to contain objective (measurable) criteria. I will provide some alternative language at the meeting.

### **STAFF FINDINGS**

Staff has examined the merits of the proposal to amend the Longview Zoning Code to allow changeable copy electronic signs in storefront windows in the Downtown Commerce District and makes the following finding:

1. The proposal constitutes a major change to Downtown Commerce District sign code and should be evaluated as part of a comprehensive review of that sign code.

### **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend to the City Council that the proposal not be adopted but instead the proposal should be carefully evaluated as part of a comprehensive review of the Downtown Commerce District sign code.

### **EXHIBITS**

- A. SEPA Documents

Report Date: March 27, 2012