

AGENDA

Longview Downtown Advisory Committee

Tuesday, May 17, 2022

MEETING TIME - 11:00 A.M.

In Person in Training Room or by Zoom

1. Meeting Details

- **In Person – Longview City Hall, Training Room**
1525 Broadway Street, 2nd Floor
- **By Zoom**
<https://us02web.zoom.us/j/82366766198?pwd=STQrMnR5TGtpb3VoZC9qZTdGOUVoZz09>
Meeting ID: 823 6676 6198 Passcode: 1923 Dial by your location
+1 253 215 8782 US (Tacoma) +1 408 638 0968 US (San Jose)

2. Call to order

3. Roll Call

4. Approval of Minutes

- Minutes from March 15, 2022
- Minutes from March 29, 2022

5. Audience Participation or Correspondence

6. Reports and Sub-Committee Assignments

- Parking Reports – LPD
- Parking subcommittee report
- Downtowner's report – Lindsey Cope
- Barriers to Businesses Downtown subcommittee report: Ariel, Elizabeth
- Reports from staff

7. Old Business

- Update on Moratorium on certain land uses in the Downtown Commerce District
 - Planning Commission Public Hearing on May 11, 2022
 - Staff report attached; full agenda packet can be viewed: [2536c77b-294e-4647-9b22-51e0e184a8e5.pdf \(windows.net\)](#)
- Topic: Idea to move the Tuesday Farmer's Market to Downtown (Ariel)

8. New Business

- Request to Change Parking Regulations
 - YMCA of SWWA

9. Board Member Comments

10. Adjournment

- Next meeting June 21, 2022

MINUTES

Longview Downtown Advisory Committee

Tuesday, April 19, 2022

11:00 A.M.

1. Meeting Details

- In Person – Longview City Hall, Training Room
- By Zoom

2. Call to order

Brad Whittaker called the meeting to order at 11:02 am.

3. Roll Call

- *In attendance: Brad Whittaker, Chair; Allan Rudberg, Co-Chair; Katie Bonus; Bill Hallanger; Ariel Large; Dawn Morgan; Pat Palmer; Karl Salzsieder; Ruth Kendall, Council Liaison*
- *Not in Attendance: Elizabeth Borders*
- *Staff present: Adam Trimble; Mary Chennault; Ann Rivers; Captain Robert Huhta; Nancy Vandehey*
- *Audience: Brennan Kauffman, TDN; Lindsey Cope; Ron Kosloski*

4. Approval of Minutes

- Minutes from March 15, 2022
- Minutes from March 29, 2022

Bill Hallanger made a motion, seconded by Ariel Large, to approve the minutes as presented. This passed unanimously.

5. Audience Participation or Correspondence

None.

6. Reports and Sub-Committee Assignments

- Parking Reports – LPD

Mary Chennault shared the parking reports

- Parking subcommittee report

Adam shared that the parking subcommittee met with the City Manager to review their presentation. The workshop has been postponed.

- Downtowner's report – Lindsey Cope

Lindsey Cope shared Downtowners are meeting Thursday at 3 pm at Mill City Grill. Downtown Clean Up and Shop Local are happening this Saturday.

- Barriers to Businesses Downtown subcommittee report: Ariel, Elizabeth

Ariel Large shared that they have a questionnaire typed up to send out to local businesses.

- Reports from staff

Ann Rivers shared the followup to Elizabeth Border's previous inquiry on Downtown Streetscape Phase 3. We are waiting for funding. Monies have been earmarked.

7. Old Business

- Update on Planning Commission review of permitted uses in downtown Longview. A Moratorium on development downtown other than retail/personal services, offices is in effect. Note- some projects vested/started prior to Moratorium.
 - Staff to present Planning Commission Recommendation for changes to Downtown Commerce District zoning.
 - DAC can provide a recommendation to Council on the changes April 19 or May 17.
- *Adam shared his memo on the moratorium. He reviewed and discussed the highlighted changes to the DC zone code updates. There was a discussion on the types of businesses allowed in the DC zone. This item was tabled pending a motion from Pat Palmer at the next meeting.*
- Downtown Parking Options for City Council consideration:
 - The parking subcommittee will present its work and 4 options for consideration to address parking needs downtown.
 - A recommendation from the full DAC is requested to forward to City Council.
 - Timeline (for reference)
 - March 29 or April 5: DAC Special meeting on parking changes- subcommittee presentation- and feedback.
 - April 12: Staff present to City Manager, presentation review
 - April 19: DAC regular meeting, formal recommendation on proposed changes
 - April 19: Parking subcommittee meeting
 - May 5 or May 19 April 21: City Council Workshop 6 pm on downtown parking
 - TBD City Council formal direction
 - TBD Request for proposals
 - TBD Ordinance on parking changes
 - 2023 Calendar Year: parking changes implemented

Adam shared the presentation as a review. Options, outcomes and impacts were discussed. After a lengthy discussion, this item was tabled to a Special meeting on Tuesday, April 26th at 11 am.

- Topic: Idea to move the Tuesday Farmer's Market to Downtown (Ariel)
This item was not discussed due to time limitations.

8. New Business

None.

9. Board Member Comments

None.

10. Adjournment

Meeting was adjourned at 12:59.

MINUTES
Longview Downtown Advisory Committee
SPECIAL MEETING
Tuesday, April 26, 2022
11:00 A.M.

1. Meeting Details

- In Person – Longview City Hall, Training Room
- By Zoom

2. Call to order

Brad Whittaker called the meeting to order at 11:04 am.

3. Roll Call

- *In attendance: Brad Whittaker, Chair; Elizabeth Borders; Katie Bonus; Bill Hallanger; Dawn Morgan; Pat Palmer; Karl Salzsieder; Ruth Kendall, Council Liaison*
- *Not in Attendance: Allan Rudberg, Co-Chair; Ariel Large*
- *Staff present: Adam Trimble; Mary Chennault; Nancy Vandehey*
- *Audience: Ron Kosloski; Wendy Kosloski; Lindsey Cope*

4. Old Business

- Downtown Parking Options for City Council consideration:
 - The parking subcommittee will present its work and 4 options for consideration to address parking needs downtown.
 - A recommendation from the full DAC is requested to forward to City Council.
 - Timeline (for reference)
 - May 5 or May 19: City Council Workshop 6 pm on downtown parking
 - TBD City Council formal direction
 - TBD Request for proposals
 - TBD Ordinance on parking changes
 - 2023 Calendar Year: parking changes implemented

Prior to the meeting, Nancy Vandehey emailed out TDN article on parking options. The survey referenced in the article was discussed. Discussion on pay per use parking lots was also applied to pay for use on Parks. A need for City to partner and pay for maintenance on parking lots. Mary mentioned that the last two budget cycles have included requests for parking lot repairs and those have not been funded.

Bill Hallanger made a motion, seconded by Pat Palmer, to remove Option 1 and Option 2 from recommendation to City Council. This passed unanimously.

Karl Salzsieder made a motion, seconded by Bill Hallanger, to make a recommendation to make progress with the following objectives and goals with no specific location selected.

Recommendations: City Council should begin budgeting for parking lot major repairs and replacement costs just like streets – 5 year plan with prioritization of specific lots; Loan to upgrade technology for Police parking enforcement; return to 1.5 FTE employees dedicated to enforcement and permits; Raise fees and fines to cover costs; Reduce warnings to 1 per year

Objectives: Enforcement program should pay for its budget \$114,000 + \$33,000 for admin; Enforcement rules should keep on-street spaces available for shoppers – target chain parking and target residents/frequent violators; Annual maintenance of the lots \$35,000 should be paid for by: _____

This passed unanimously.

5. Adjournment

Meeting was adjourned at 12:22.



Staff Report

TO: Longview Planning Commission

FROM: Adam Trimble, Planning Manager

HEARING

DATE: May 11, 2022

SUBJECT: Amend the zoning code Title 19, LMC 19.44.020 Uses permitted in the Downtown Commerce District, D-C zone. The proposed changes include allowances for restaurants with drive-up service, removal of public hearing requirements for food truck pods and other 'walk-up' restaurants, allowing outdoor entertainment activities, adding location restrictions to membership clubs and fraternal organizations, allowing gambling casinos and cardrooms with location restrictions, allowing mixed-use residential/commercial developments with location restrictions and making congregate care and similar facilities not permitted in the zone. Staff is recommending one additional change to add a definition for Restaurant to the zoning code.

CASE #: PC 2022-1

TYPE OF

DECISION: Legislative

BACKGROUND

At the January 13, 2022 regular meeting, the City Council introduced and passed an emergency ordinance enacting a moratorium on all applications for new uses or developments in the D-C zone except for "sales oriented: stores selling, leasing, or renting consumer, home and business goods; or personal service oriented: financial, insurance, real estate, professional outlets and offices, and beauty/barber shops." With the adoption of the moratorium, the City Council directed the Planning Commission to review the uses permitted in the Downtown Commerce district, D-C zone and recommend zoning amendments to ensure a vibrant mixture of for-profit uses including the sale of goods and services, entertainment and dining are present.

The moratorium noted a trend of new uses downtown that are not complimentary to for-profit retail sales, personal services and restaurant uses. Two corner buildings have converted recently to house offices for mental health counseling and drug rehabilitation. To address this concern and the direction of the City

Council the planning commission considered approaches used by other cities to use zoning regulations to control what types of uses and businesses are able to locate in downtown areas. The Planning Commission also requested a survey of land-uses downtown and heard from experts in real-estate regarding trends in demand for commercial buildings and different uses like health care which is expanding and restaurants which have not recovered or come back since Covid.

The current zoning code for downtown Longview was adopted in 2010. The 2010 zoning code for commercial districts implemented a regulatory structure that addresses categories of uses instead of specific lists, and makes less use of special property uses, which require a subjective public hearing process. The updated code keeps the same use categories across all commercial zones in a table format for ease of implementation, clarity and consistency. It replaced a zoning code that listed specific types of uses allowed such as nail salons or barbers instead of a *personal services* category. The previous code was not consistent across commercial zones, with each separate zone having slightly different lists of uses. While the new zoning code is the favored modern approach to zoning, broad categories and consistency across all zones limits the ability to introduce nuanced variation for one zone or within one use category.

Singling out specific businesses or types of uses within a category for exclusion can easily violate with the equal protection clause of the 14th amendment and court precedent that requires there be a 'rational basis' for such treatment. When all commercial zones permit Health Care Providers and a proposal is made to allow Health Care Providers, except for Mental Health Counseling in one zone, that unequal application of the law must have a rational basis or it runs the risk of being an illegal arbitrary restriction. The Practice of Local Government Planning, 3rd edition describes: "An equal protection challenge to a land use regulation would be based on the claim that the regulation treats similar persons dissimilarly."¹The Cornell Law School, Legal Information Institute provides that "To pass the rational basis test, the statute or ordinance must have a legitimate state interest, and there must be a rational connection between the statute's/ordinance's means and goals."² While considering options to meet the direction of City Council the Planning Commission found that some approaches would either lead to arbitrary restrictions inconsistent with restrictions placed on similar uses, such as allowing office uses but not allowing non-profit office uses, or that restrictions which pass the equal protection test, such as limiting entire categories of uses to 2nd floor locations, or less than 2,000 square feet, would hurt the zone more than help and stymie business development.

As an example of the drawbacks to the kinds of zoning restrictions that pass the constitutional equal protection test, the previous zoning code applied a City

¹ Hoch, C. J., Dalton, L. C., & So, F. S. (2000). The practice of Local Government Planning (3rd ed.). American Planning Association (APA). P.317

² *Rational Basis Test*. (n.d.). Cornell Law School/ Legal Information Institute. Retrieved May 5, 2022, from https://www.law.cornell.edu/wex/rational_basis_test

Council public hearing requirement to any use in the D-C zone where more than 50 people could gather at one time, and to medical clinics, rehabilitation services, counseling services, alcohol and drug dependency treatment and counseling services proposed on the ground floor of a building. Ground floor uses which could accommodate more than 50 people were also limited to 20 % of each side of a street within a block. The public hearing requirement applied to uses that were otherwise permitted, if the space they occupied was rated for occupancy by 50 or more which led to restaurants, auction business and other commercial/retail uses where people gathered, being forced to go through the delay and uncertainty of a public hearing process or withdrawing from that location. While the trigger for the public hearing applied equally to all ‘assembly’ type uses, the public hearing process could still result in outcomes that are arbitrary and capricious if identical uses received different hearing outcomes. Inevitably, the approach of the former zoning code resulted in amending the code to exempt restaurants and other desired uses from the public hearing requirement, jeopardizing the equal application of the rule.

In addition to the rational basis test, zoning laws must not violate the Religious Land Use and Institutionalized Persons Act of 2000: “RLUIPA prohibits zoning and landmarking laws that substantially burden the religious exercise of churches or other religious assemblies or institutions absent the least restrictive means of furthering a compelling governmental interest.” And ... “prohibits zoning and landmarking laws that... treat churches or other religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions’...or ‘unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.”³ The 2010 zoning code update addressed this federal law by allowing churches and community centers in 4 of 6 commercial zones but in the D-C zone, required; “In the D-C district any property use intended to primarily provide meeting areas for secular and nonsecular uses without an ongoing active ground floor use is prohibited. An ‘active ground floor use’ means a retail, business, or entertainment use where persons come and go on a constant and frequent basis.”⁴

PROPOSAL

The Planning Commission considered several approaches to meet the direction given by the City Council. Ultimately, a positive approach of allowing and removing barriers for more for-profit uses including the sale of goods and services, entertainment and dining was taken. The proposed changes include allowances for restaurants with drive-up service, removal of public hearing requirements for food truck pods and other ‘walk-up’ restaurants, allowing outdoor entertainment activities, adding location restrictions to membership clubs and fraternal organizations, allowing gambling casinos and cardrooms with location restrictions, allowing mixed-use residential/commercial developments with

³ Religious Land Use And Institutionalized Persons Act. (2020, October 15). The United States Department of Justice. <https://www.justice.gov/crt/religious-land-use-and-institutionalized-persons-act>

⁴ Longview Municipal Code. COMMERCIAL ZONING DISTRICTS: Chapter 19.44.020 Uses. <https://www.codepublishing.com/WA/Longview/#!/Longview19/Longview1944.html#19.44.020>

location restrictions and making congregate care and similar facilities not permitted in the zone. After the planning commission recommendation to set a public hearing on draft amendments staff received legal advice that any additional restrictions proposed on Religious Assembly and Institutions, Community Centers, would likely be illegal and is removed from the draft amendments. Staff is recommending one additional change: to add a definition for ‘Restaurant’ to the zoning code, to read: “a business where food and beverages are sold to the public on demand from a menu during stated business hours and may include incidental delivery or pickup service.” There is not currently a definition for restaurant in the zoning code, which limits the ability of the City to determine what is a food and beverage serving use allowed or not allowed in commercial zones.

The proposed changes are attached as Exhibit A.

S.E.P.A. Determination

An Environmental Checklist for the proposed zoning code revisions was reviewed pursuant to the State Environmental Policy Act and a determination of non-significance was issued on April 27, 2022. [E 2022-6 SEPA checklist] The comment period for the SEPA checklist ends May 11, 2022. SEPA documents are attached as Exhibit B.

Additional Information

Pursuant to Chapter 19.81 of the Longview Municipal Code, a legal notice was published in the Longview Daily News on Sunday May 1, 2022 and Sunday, May 8, 2022. A press release about this public hearing was sent Wednesday, May 4, 2022.

Citizen Correspondence

As of this writing, the City has received no comments. The Downtown Advisory Committee have had opportunity to provide a recommendation on the draft amendments but chose to do so at their May 19, 2022 meeting.

Comprehensive Plan Goal and Policies (underline added for emphasis)

The comprehensive plan contains multiple goals, objectives and policies relating to land use compatibility including the following:

- | | |
|-----------------|--|
| Goal LU-F | Support existing businesses and provide an energetic business environment for new industrial and commercial activity providing a range of service, office, commercial, and mixed uses. |
| Policy LU-E.4.6 | New multi-family land use classifications should be applied as follows: <ul style="list-style-type: none">a. located in or abutting areas already containing multi-family uses; orb. in or next to Central Business, Regional or Community Commercial Districts or more intensive institutions;c. <u>located in areas offering unique amenities such as in Downtown</u> or along the Cowlitz and Columbia River waterfronts; ord. along arterials where access consolidation and transit are available.e. In all cases, existing or planned transportation capacity should be adequate to accommodate projected travel demand according to City standards. |

- Policy LU-A.1.5 Facilitate redevelopment of existing developed land when appropriate, and encourage infill development on vacant or underdeveloped land.
- Goal ED-B To create a downtown in Longview whose viability is based on a unique character, is easily differentiated from other commercial areas in the Longview/Kelso area, is attractive to residents and visitors, is active 24 hours a day, and attracts residents and visitors from Longview and other areas.
- Objective ED-B.1 Continue the implementation of the Downtown Plan through City staff support, development code updates, and coordination with Longview business groups. Key activities and programs should be identified biennially in conjunction with the adoption of the City's budget.
- Policy ED-B.1.1 Retain and promote existing retail and office uses. Consistent with the Downtown Plan, expand customer marketing, business development, streetscape improvement, property owner/developer programs, and promote parking efficiencies for a well-defined downtown retail core and mixed-use district.
- Policy ED-B.1.3 Encourage more market rate housing in and near Downtown to strengthen Downtown businesses, support transit service, increase housing diversity, and provide an active, social character. Consider adaptive reuse of some city-owned parking facilities to jump-start the process.

COMPREHENSIVE PLAN FUTURE LAND USE MAP

The proposal will affect areas in Downtown Commerce District, D-C zone.

COMPREHENSIVE PLAN INTENT STATEMENT

Central Business District (underlines added for emphasis)

The CBD is the commercial area which is, shall be maintained, promoted as, and redeveloped as a major retail, service, financial, professional, and cultural center if not also the regional retail trade center for the Longview-Kelso urban area and vicinity. This area shall be developed and redeveloped with a dense, highly intensive land use pattern focusing on high quality, urban style of development and architecture. This land-use designation recognizes the downtown and Triangle Shopping Center as areas of special concern to the City because of their importance and potential in maintaining the community's long-term economic viability and cultural attractiveness. Encouraged uses, activities, and structures include but are not limited to the following:

- large department stores;
- smaller retail stores;
- service, financial, insurance, real estate, and professional outlets and offices;
- municipal and private shared parking garages and lots;
- pedestrian malls and plazas;
- performing arts and other entertainment and cultural facilities and activities;
- hotel, motel, and conference or convention centers;
- transportation terminal;
- mixed use projects;
- upper story residential uses; and
- pedestrian walkways linking key facilities.

Pedestrian, bicycle, and transit access is emphasized to ensure that this area is walkable. Discouraged uses are those that are land consumptive, such as warehouses, automobile sales lots, and individual business parking lots and thus diminish the area's compactness and convenience as an integrated shopping goods and services area. Uses that are strictly automobile access-oriented, such as drive-in restaurants and gas stations, as opposed to pedestrian oriented, are discouraged in the downtown portion of the CBD.

STAFF DISCUSSION

The Planning Commission considered several approaches to both broaden and increase the allowed uses that will contribute to a 'vibrant mixture of for-profit uses including the sale of goods and services, entertainment and dining are present,' and to limit and prevent uses not complimentary to the above. It was quickly realized, with the current zoning code emphasis on categories of uses, excluding specific uses, activities, or non-profit type businesses, will result in unintended consequences for businesses and uses that are desired. A re-write of the zoning code was not the direction given to the Planning Commission and zoning codes based on lists of specific uses inevitably result in unintentionally excluding a business that would be acceptable. Other constitutionally sound zoning restrictions must treat all similar uses the same, limiting the ability to target undesired uses within a desired category of uses. Planning Commission members discussed at length the concerns which prompted the D-C zone moratorium and direction from City Council. The members also recognized that zoning codes are restrictions and not practical solutions that can address underlying problems driving increased need for social service providers and drug rehabilitation clinics. Property maintenance, attracting investment and addressing crime and loitering likewise are not part of the zoning code but could be practical solutions to some of the concerns raised by downtown business and property owners. Where the zoning regulations appeared to stand in the way or limit or restrict desired uses, the Planning Commission has recommended removal. Uses that did not compliment the sale of goods and services, entertainment and dining are recommended to be limited or prohibited. In the pages below, each change or deliberate no-change is summarized and detailed with notes.