

**CITY OF REDMOND PLANNING COMMISSION
MINUTES**

April 4, 2018

COMMISSIONERS PRESENT: Chairman Biethan, Vice Chairman Captain,
Commissioners Kritzer, Miller, Nichols, and
Rodriguez

STAFF PRESENT: Andrew Bauer, Gary Lee, Scott Reynolds, Jae Hill,
and Judy Fani Redmond Planning Department

EXCUSED ABSENCE: Commissioner Rajpathak

RECORDING SECRETARY: Lady of Letters, Inc.

CALL TO ORDER:

The meeting was called to order at 7:00 p.m. by Chairman Biethan.

Vice Chairman Captain stated that Chairman Biethan was retiring from the position of chairman after this meeting. He has served in that position for approximately nine years. Vice Chairman Captain expressed appreciation to Chairman Biethan for being an excellent chairman and guiding hand to new Commissioners.

Mayor John Marchione congratulated Chairman Biethan and acknowledged the dedication and diligence required for the chairman position. The results of the work of the Planning Commission can be seen all around the City and will also be seen long into the future. Mayor Marchione thanked Chairman Biethan for his service and in recognition presented him with a plaque.

Chairman Biethan stated that it had been a privilege to work with everyone and appreciated the time taken by the Mayor to attend this meeting. Chairman Biethan stated that he is proud of what the Commission has done and continues to do and then he thanked everyone.

Chairman Biethan referred to the action of the former chairman upon retiring, mentioning a relative who was watching the live video feed. Chairman Biethan decided to do likewise and wished his son a happy 23rd birthday.

APPROVAL OF THE AGENDA:

MOTION to approve the Agenda by Commissioner Miller. MOTION seconded by Commissioner Captain. The MOTION passed unanimously.

APPROVAL OF MEETING SUMMARY, March 28, 2018:

MOTION to approve the Meeting Summary by Commissioner Miller. MOTION seconded by Commissioner Nichols. The MOTION passed unanimously.

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ITEMS FROM THE AUDIENCE: There were none.

Public Hearing and Study Session, Zoning Code Amendment for Type III Appeals to City Council, presented by Mr. Gary Lee and Mr. Scott Reynolds, Redmond Planning Department

Mr. Reynolds explained that approximately one year ago, an interim ordinance was approved by City Council. The recommendation of the Technical Committee is to permanently remove City Council from Type III Permit Reviews, allowing City Council to freely engage with the public without concern of compromising appeals and also, allowing the appeal process to remain within legal bodies for decisions.

In the previous code, prior to the interim ordinance approved last year, the City Council was the first administrative appeal body followed by King County Superior Court. Shoreline permits were the one exception which went to a different appeal body. The current code under the current interim ordinance and proposed for the permanent ordinance at this meeting designates King County Superior Court as the appeal body for a typical Type III appeal with two exceptions; Certificate of Appropriateness Type III, which is heard by the King County Landmark Commission, and Shoreline Permits. Some changes had been made since the presentation last week to the appeal process for Landmark Commission decisions only.

Chairman Biethan asked for clarification that there is already a process set for the Landmark Commission and Shoreline Permits and that changes from the last presentation were only to ensure the processes are clean. Mr. Reynolds replied in the affirmative and stated that this proposal should not create any new issues. Chairman Biethan asked for clarification that there was not a change in policy but rather that the local City Council would be removed from the appeal process only and Mr. Reynolds reviewed a process flow chart to confirm.

Mr. Reynolds continued to review the PowerPoint presentation slides. Staff had reached out to the King County Historic Preservation office, Lake Washington and Bellevue School Districts, and those in the Redmond community that have used Type III permits in the past. Public comment and records had been reviewed.

The action that staff was seeking from the Planning Commission was a recommendation to Council. If a recommendation would be given at this meeting, the ordinance would go to City Council in late April or early May for a decision.

Chairman Biethan stated that an additional document [*Should Legislative Bodies Conduct Quasi-Judicial Hearings?*, Joseph W. Tovar, MRSC, August 31, 2016], regarding benefits of the proposed policy by the author had been submitted to the Public Record. There were no questions around the slide presentation.

Public Hearing

Mr. Eugene Zakhareyev, 5126 154th Avenue, Redmond, expressed a desire for the previous ordinance to remain without changes. Mr. Zakhareyev did not wish to repeat his past comments

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as they were previously entered. There were no legal reasons for the City Council not to engage with constituents unless a process is pending. If the City Council felt threatened, this would not be due to the laws of the Washington State. In the presentation it was mentioned that the City of Redmond hoped to decrease the chance of litigation against it. As a resident appealing to a Hearing Examiner, the typical cost would be between \$10,000 and \$30,000. Superior Court costs could be triple this or more. From the perspective of a resident, an appeal to the City Council is more financially fair. The fact that other cities do not have quasi-judicial proceedings is not relevant and a statistical point only. Mr. Zakhareyev asked the Planning Commission to leave the ordinance as it was.

Commissioner Miller asked Mr. Zakhareyev for the source he used for litigation costs. Mr. Zakhareyev replied that he had employed a land use attorney with typical fees of \$300 to \$400, plus an extra 20 percent to 40 percent for a court appearance, legal costs, and that expert witnesses typically cost \$100 to \$300 each per hour. Commissioner Miller asked if these were court costs and Mr. Zakhareyev replied yes, the cost was a personal approximation based on experience.

Ms. Margaret Lieberton, 17208 NE 22nd Court, Redmond, commented having recently completed a Type III review as a resident within a neighborhood group. As this involved a church, Mr. Lieberton examined Church Law and hired an Attorney. According to Redmond Zoning Code, Ms. Lieberton and her Attorney believed themselves to be on solid legal ground, but the City Attorney, Planning Department, and Church argued against the neighborhood group. An individual neighborhood resident should not have to form a neighborhood group, raise money, and go to court, particularly when the code is already clear. Ms. Lieberton believed that City Council fears being sued individually, but with solid legal ground, a church should be treated the same as other entities. The City Council should listen to all sides of an issue.

Ms. Lieberton referenced the question presented within the document entered into the Public Record referenced by Chairman Biethan before the Public Hearing in regards as to whether the City Council is a judiciary body or a legislative body and stated the belief that the City Council was both as well as an executive body. The current code has City Council reviewing facts and conclusions, but not necessarily judicial or legal matters. Better legal advice may be needed for interpreting codes and laws. Exhibit F in the presentation showed that other communities have appealed to the Superior Court, but what was not shown was that at least Bellevue and Kirkland - include an appeal process to City Council. Ms. Lieberton gave zoning code references.

Chairman Biethan stated that it was important for the Planning Commission to hear this from citizens, and as Chairman Biethan did not have a chance to react to other city codes, additional information was needed from staff. The issue should not be rushed to close. Ms. Lieberton stated that while most of the information given in the staff presentation was true, the sentence that indicated that most other cities had eliminated City Councils from their process was not true. Chairman Biethan asked staff to validate the information in Exhibit F concerning Bellevue and Kirkland's process for appeals similar to Redmond's Type III appeals. Chairman Biethan asked if Ms. Lieberton felt fairly treated in this respect and Ms. Lieberton replied yes. Chairman Biethan stated that the Planning Commission was a Citizen Advisory Committee.

Ms. Lieberton commented that in the presentation it was expressed that the Superior Court appeal process would be more cost effective if an additional layer of appeal were removed and asked if Superior Court were a trial by jury. Chairman Biethan believed Superior Court was a bench trial. Ms. Lieberton continued that the cost for the person appealing was higher than for the City.

There were no questions. Chairman Biethan kept the Hearing open and moved to the Issues Matrix.

Mr. Lee read the first issue; what was the cost benefit analysis? The cost of an appeal to staff work was approximately \$6,000 for a large project, not including the attorney, council time or staff that must attend one or more meetings. Eliminating the City Council appeal would reduce the cost to the City and reduce the likelihood of financial penalties for any errors.

Commissioner Nichols asked for clarification between open and closed record hearings, and Mr. Lee replied that an open record hearing involves public testimony and public discussion while a closed record hearing, such as an appeal, is limited to analyzing the decision with limited public testimony and no new information. The appeal is only regarding whether or not there was an error in the process by which the original decision was arrived at. The Planning Commission can hear new information, but the City Council is already limited as to what they can hear in an appeal case.

Commissioner Miller asked if an appellate would be able to testify to the record on the matter, and Mr. Lee replied that the appeal hearing body is limited as to what can be considered and this is where the liability lies.

Vice Chairman Captain asked if a Hearing Examiner was a legal professional, and Mr. Lee replied that was correct. The process moved from staff, to City Council, and then to the Hearing Examiner.

Commissioner Kritzer asked for an explanation of the difference between cost estimates given in the Public Hearing and cost estimates given in the staff presentation. Mr. Lee replied that the cost depends on complexity and length. Chairman Biethan asked if it was more expensive to go to Superior Court and Mr. Lee replied in the affirmative. The cost to the City was addressed in the presentation and not the possible cost to an appellant, as each case would depend on choices made by the appellant in regards to, for example, the number of expert witnesses and amount of time dedicated.

Chairman Biethan asked if item one had been answered and both Commissioners Kritzer and Miller replied in the affirmative and that the issue could be closed.

Mr. Lee read the second issue: If there were a greater legal risk to the City in removing the council from the appeal process. There was no greater risk, but rather reduction of risk for the City in that the City would not be liable for legal fees or further representation in Superior Court due to errors. Chairman Biethan asked if the question had been answered, and Commissioner Miller replied that clarification had been made. The issue was closed.

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Mr. Lee addressed issue three, clarification to Mr. Zakhareyev' previous statement regarding *City Council Members having raised the question of whether they should be the appeal body for Type III permits, as they would like to be able to advocate for their constituents without creating a conflict of interest and, thus; possibly endangering their ability to hear the appeal.* Further, Mr. Zakhareyev stated that there is nothing that would preclude the City Council from discussing matters with constituents. In response, staff explained that there are times when hearing from the public was not appropriate for the City Council, specifically, when this would jeopardize the process. Commissioner Nichols replied that this issue was answered. Vice Chairman Captain asked if the risk to City Council was relative to the actual case in front of them, positively or negatively, for either side. Mr. Lee replied in the affirmative, and stated that both sides can appeal. Chairman Biethan asked if an appellant approaching a City Council member about a case absent the public process was okay, and Mr. Lee replied that it is not okay. The issue was closed.

Mr. Reynolds read the fourth issue: The number of appeals received by the City. Upon further research, it was discovered that there had been only one appeal within the previous five years to City Council. Commissioner Kritzer accepted the answer and the issue was closed.

Mr. Lee addressed the fifth issue: Examples of the old process. Staff was unable to answer the question. Chairman Biethan asked if written feedback had been received from Commissioner Rajpathak and Ms. Fani replied that feedback had not been received. Chairman Biethan presumed that if Commissioner Rajpathak did have feedback, it would have been submitted prior to this meeting, and closed the issue.

Mr. Lee raised issue six: Why is Redmond different than other communities? Looking at other cities, Redmond is behind the curve on this subject. Commissioner Rodriguez asked if, while Woodinville, Sammamish, Mercer Island, and Bellevue were examined, Kirkland ordinances should be reviewed as well, because Kirkland had been specifically referred to by the two Public Hearing speakers, in order to comprehensively answer the question. Mr. Reynolds replied that the only process that would change would be Type III. Chairman Biethan stated understanding that Public Hearing testimony indicated that similar types of appeals to Type III were handled differently in some cities. Vice Chairman Captain asked if this would be comparing the same appeal types and Mr. Reynolds replied that only codes were examined and there had been no outreach to communities.

Chairman Biethan stated that the choices for the Commission were to close, make a Motion to forward to City Council, or to ask for further clarification. Commissioner Miller asked to keep issue six open because issues raised in testimony were substantive. The Commission needs to know if the communities presented as similar or role models incur the same risk that Redmond is trying to exclude. The Commission agreed to keep the issue open, but Commissioner Nichols, while not opposed to keeping the issue open, stated a belief that staff had answered the issue for verification. The issue remained open.

Chairman Biethan kept the written Public Hearing open until the next meeting in order to close the information loop with input from citizens. Vice Chairman Captain added that staff had done an excellent job and all aspects of the amendment must be understood completely by all Commissioners. Ms. Fani stated that the next meeting would be the Retreat, and Chairman

Biethan clarified that the written Public Hearing would remain open until the next regular meeting on April 18, 2018.

Mr. Lee asked for clarification that what was needed was to know whether the other community processes were similar or not. Chairman Biethan replied yes, and that there could be further written testimony to consider. The Verbal Public Testimony was closed.

Downtown Parking Plan Briefing and Scoping, presented by Mr. Andrew Bauer, Senior Planner, Redmond Planning Department.

Mr. Bauer began the presentation explaining that the demand for parking was higher than ever in Redmond's history. New improvements and amenities would continue to draw more people and businesses into downtown. The Downtown Park was anticipated to be the heart of Redmond events and activities. Light rail arrives in 2024. The downtown resident population is estimated to reach 11,400 by 2030, and population in 2010 was 4,300. Investment and zoning changes have been focused into the City's two urban centers, Downtown and Overlake.

The two most recent parking studies were done in 2008 and 2014. Implementation was not as successful as hoped from the 2014 study and this current study would need to include a broad cross-section of community input.

The current first phase, data collection, would be followed by identifying opportunities and constraints, informing actionable recommendations and an implementation plan. At the completion of each phase staff anticipates to pause and share with stakeholders and the community information and work done to date to ensure accurate review and identify any need for additional engagement.

Seven to nine volunteers for a Parking Advisory Committee were initially advertised for in late January, 2018, via a press release, social media postings on City Facebook, Twitter accounts, City E-News, with targeted signage at the Downtown Transit Center and the paid parking lot along the Central Connector. Twenty-three people answered and all were accepted; residents, employees, property and business owners, a property manager, and commuters. A kick-off meeting was held on March 19, 2018.

Managing existing parking resources more efficiently rather than building more parking stalls and lots is a more sustainable solution as land is limited. If ideally managed, adding to traffic by circling blocks several times in search of parking would not occur. Clear signage or wayfinding to off street parking is one example of how this could be achieved. The supply side of parking management could be requiring a set number of parking stalls to be built with a new development and shared parking lots where, for example, a bank provides customer parking during the business hours and paid parking at other hours. Parking districts return revenue back into marketing for business, streetscape enhancements, etc. Parking time limits turn over spaces for new people. Smart mobile applications displaying open stalls and navigation to them are being used in other communities.

Mr. Bauer asked for input from the Commission regarding any additional components that should be included into the draft RFP and thoughts around what had been identified in the slide presentation. Chairman Biethan explained to the Commission that the presentation was a briefing not requiring action at this time. Mr. Bauer stated that the process was in the early stages and could still adapt in terms of engagement or approach.

Commissioner Nichols stated that expectations regarding parking, such as willingness to walk a block or payment not required, could be explored.

Commissioner Kritzer asked if technology could be used to manage the inventory component, and if asking for recommendations regarding how technology could create a better use of spaces should be included in the RFP. Mr. Bauer replied that he was not aware of technology currently being employed in Redmond.

Commissioner Rodriguez commented that data collection should emphasize data that will be useful and that not only daily, but also yearly, trends should be collected that correspond to annual events downtown. Mr. Bauer replied that the timeframe for data collection had not been defined yet, but that time of year could have an impact. Commissioner Rodriguez asked what duration of data collection was anticipated prior to step two. Mr. Bauer replied more than likely a snapshot in time; several days of utilization. Commissioner Rodriguez asked if sophisticated tracking such as cars driving around blocks to find parking would be used, and Mr. Bauer replied he was not aware if this would be in the scope.

Vice Chairman Captain stated that currently, there is always parking somewhere and that there are more challenges to find parking on certain nights. The study should consider what parking is not available at all as opposed to, for example, not being able to find a parking spot directly outside of the business you are visiting.

Mr. Bauer commented that it appeared that the Commission desired more qualitative data in addition to the quantitative data. The RFP could include surveying people on the street for their experience in finding parking and what their expectations are.

Commissioner Miller commented that a year-long process had recently been completed regarding the Downtown Transit Station and the limited amount of curb space available was realized. The values that are a part of the Complete Streets Ordinance should be a part of this parking study. Transit should be represented on the Advisory Committee. Layover for buses should be addressed. Other entities such as technology, Uber, Lyft, and car shares should be considered as well as the bike share, the condition of the pedestrian environment in regard to walking distance, and ADA concerns. While a lack of parking can contribute to congestion, the opposite is true as well. The City of Seattle has significantly changed parking policies related to residential development recently, and parking has been unbundled from rent, potentially opening capacity to the public. A scope including the extended area to SR 520 and Avondale may be worth considering. The issue involves not only cars, but is multi-modal. If the realities around how transportation is changing can be addressed, this is a chance to establish a benchmark for other communities. Mr. Bauer asked if Commissioner Miller would be interested in information

regarding more specific varieties of vehicles such as electric, and Commissioner Miller replied that it would be worth addressing.

Commissioner Kritzer commented that best practices, in terms of planning for autonomous vehicles and the potential future impact, would be useful. Commissioner Kritzer asked if socio-economic and racial demographics in regards to any communities not being reached would be addressed. Mr. Bauer replied that the information could be explored. Commissioner Kritzer hoped that different perspectives would be taken into account throughout the process.

Vice Chairman Captain hoped to see more consistent briefings to the Planning Commission on the parking plan since this was an important and timely topic as Downtown continues to grow, and the City prepares for the light rail stations.

Chairman Biethan asked if there could be opportunities to educate private owners regarding potential revenue from their own lots that are currently empty after business hours.

Mr. Bauer stated that the next steps would be to incorporate feedback from this meeting with the inter-departmental staff team, which includes King County Metro, and the RFP would continue to be developed. Mr. Bauer asked if the Commission would like another briefing before the existing conditions report is completed, and Vice Chairman Captain replied that a schedule was not necessary for briefings, but rather that when Mr. Bauer believed there was information that the Planning Commission would be interested in, briefings could be given and, hopefully, regularly. Mr. Bauer stated that some recommendations and implementation measures may result in code or policy changes that the Commission would be involved in.

Chairman Biethan thanked the Advisory Committee members in attendance for being present.

Reports/Scheduling/Topics for Next Meeting(s)

Ms. Fani reported that the Retreat would be held next week. Following the Retreat there will be two more meetings in April; Mr. Lee and Mr. Reynolds would return regarding the issues matrix for the amendment to Type III appeals process, and an upcoming presentation regarding Marymoor.

ADJOURNMENT:

MOTION to adjourn by Commissioner Nichols at 8:46 p.m. MOTION seconded by Vice Commissioner Captain. The MOTION passed unanimously.

Minutes Approved On:

Planning Commission Chair
