

AGENDA REPORT

Date: March 13, 2013
To: City Council
Thru: Ted Barkley, City Manager *TB*
From: Mike Smith, Community Development Director *MS*
RE: Landmarks and Design Commission Comments on Draft Land Development Code

Summary: The Landmarks and Design Commission has completed its review of the *Revised Draft 1* Land Development Code and has made a number of recommendations to amend that *Draft*. Staff is seeking Council direction on how best to proceed with those recommendations.

Background: The City released a revised *Draft 1* of the proposed new land development code that incorporates a number of changes based on the initial comments received on the initial *Draft*. Council has worked with the Planning Commission to provide direction to staff on how to proceed with the Planning Commission's comments. The Landmarks and Design Commission (Commission) has now completed its review and has made a number of recommendations for amendment (**Attachment A**).

Staff has reviewed the Commission's comments and recommendations and is supportive of most of the recommended changes. A few recommendations, however, require some City Council direction as to how to proceed with incorporating the recommendations into the *Draft 2* that will then go out for formal review leading up to consideration of adoption of the new land development code.

CAVEAT: Also please recognize that ATTACHMENT A is the result of a number of different track change documents and there are likely errors and perhaps omissions in the placement of text changes, as well as some procedural omissions due to lack of a thorough code check. The important question is whether or not Council is favorable to the direction the Commission is recommending below and, if so, then staff will have more time to work with the Commission and clean up the proposed changes.

Analysis: The items that Staff has identified as needing Council direction are identified below along with an indication of Staff's recommendation and/or identification of issues that Council will need to provide direction on. The reference page in their recommendation document are in **bold**.

1. Hearing Examiner and the role of the Commission in project reviews.

The Commission has indicated that it would prefer to focus more on historic preservation matters than on city-wide design review and has recommended the following:

- Shift review of major and minor design review to the Administrator or the Hearing Examiner, EXCEPT for properties on the Landmark Register (LR) which should be reviewed by the Commission (**Page 7 charts**)
 - the current draft code contains sufficient design criteria and guidelines to allow both major and minor design review to be handled

- *DEPARTURES* from those design criteria and guidelines should be handled by the Commission because those departures require some degree of design review expertise to decide, and the *DEPARTURE* option can provide an opportunity for poor design to sneak back in to the community. (Page 10 (C)) (Page 12 (B)) and (15.50.030)

STAFF is supportive of this approach.

2. Elimination of current single family exemption from mandatory design review
Under current code, and carried into the draft new development code, single family residences that are on the LR must undergo review by the Commission for exterior alterations, however, compliance with the decision by the Commission is voluntary for single family residences only
 - There seems to be no reason why that exemption is provided since all properties on the LR have been designated as historic and listed as such. If a business building exterior alteration decision is mandatory it would seem that it would also be mandatory for a single family exterior alteration. (15.28.090(B))

STAFF is supportive of this recommendation.

3. Addition of some regulation for properties that are on the City's Historic Resource Inventory
Currently all properties listed on the Landmark Register are subject to regulation when exterior alterations or demolitions or signage are proposed. The Commission is also empowered to develop a Historic Resource Inventory of other non-LR properties that are appropriate for historic preservation protections until such time as they are listed on the LR. (15.13.080 H definitions)

The Commission is proposing that:

- the Commission work on developing an Historic Resource Inventory based on historic preservation surveys of properties or area-wide districts such as the Depot Addition area along 3rd Avenue
- properties on the Historic Resource Inventory would be subject to Commission review for:
 - Demolitions (Page 14 item D)
 - Accessory Dwelling Units – only those proposed to be on top of a garage that abuts an alley (15.32.030)
 - Non-conforming uses (15.24.050)
 - Small Wind Energy Systems (SWES) and Communication Towers (13.34.070) (15.34.080) and (Chart 15.21.050(B))

STAFF is supportive of the Historic Resource Inventory process, but would defer to Council on how much regulation should be placed on properties in that Inventory. If Council is in agreement with including regulation of Historic Resource Inventory properties, then some additional process language will need to be inserted to accurately reflect the nature and extent of that regulation and review process. FURTHER COUNCIL DIRECTION IS REQUESTED

4. Small Wind Energy Systems (SWES) and Communication Towers
The Commission is recommending that these be prohibited on properties on the LR and subject to Commission review for properties in the Historic Resource Inventory (13.34.070) (15.34.080) and (Chart 15.21.050(B))

STAFF is supportive of this recommendation.

5. Demolitions

Demolitions of non-Landmark Register property are governed by the City's Building Code and, as recent demolitions of a number of older homes and the Old Hospital have shown, those current demolition codes may not be adequate to protect non-listed structures that may have historic significance. The Commission is recommending that: (Page 14 item D)

- Language be added to require properties on the Historic Resource Inventory to also undergo Commission review prior to demolitions.
- Increase the time period for Landmark Register or Historic Resource Inventory demolitions during which the Commission works with the property owner to explore options to save the structure from the current "up to 90 days" to a proposed 120 days

Staff is supportive of adding some language that would provide a level of review for proposed demolitions of "historic" structures. The proposal to include properties that are listed on the Historic Resource Inventory makes sense since that Inventory needs to be developed and there should be some public review process prior to a property being included in the Inventory. Staff would defer to Council on this issue, however, since there is no Historic Resource Inventory in place at this time. FURTHER COUNCIL DIRECTION IS REQUESTED.

6. Murals.

The Commission has drafted language for the Sign Code 15.56.145 that would regulate murals which are currently not specifically regulated in City Code. The proposed language would:

(15.13.130 M definitions) (15.28.090(A)) (New 15.56.145)

- Place a 1 mural limit per building and impose locaitonal and size requirements
- Require that they complement the architectural and historical character of the historic district, reinforce the architectural features of the building and be compatible with the appearance of adjacent buildings and community
 - It is unclear from the proposed language whether murals would be permitted outside of the historic district
- Place time limits and require re-application at some point and require on-going maintenance

STAFF appreciates the work of the Commission in this draft language and believes it is a good start. However, staff feels more discussion is needed with input from the Arts Commission, perhaps the City Attorney, and others due to the constitutional protections that both "art" and "signs" enjoy. A mural could be considered both art and a sign. FURTHER COUNCIL DIRECTION IS REQUESTED.

As indicated above, Staff is requesting further Council direction on several of the Landmarks and Design Commission recommended changes to the Draft Land Development Code. Members of the Commission will be present at the March 18 Council meeting to discuss these recommendations if that is Council's desire, or Council could opt to set a joint special meeting with the Commission to engage in a discussion of the recommendations.

RECOMMENDATION: Provide Staff with direction.

Landmarks and Design Commission Summary of Comments on Land Development Code Update

The landmarks and design commission's review identified four key issues.

1. **Scope of the commission's role.** This is where we comment, as requested by City Council, on the definition of major vs. minor projects. We are proposing that the commission have a smaller role in design review (i.e., none at all, if the code is followed, except for landmarks properties and districts), but that it have a role in reviewing all departures from the design standards, except for single family and duplex residential projects, as well as all projects involving a landmarked property or a property in a landmark district. This proposal implies that the distinction between major and minor project design review would no longer be needed if the design standards are sufficient, as the land development code update sought to make them.
2. **The commission's authority.** While the commission would like to focus more narrowly on historic preservation and the associated design review, we believe that the commission needs the authority to make decisions on these matters rather than recommendations to the director, who lacks both time and expertise to make such decisions. Members of the landmarks and design commission – alone among the city's commissions – are required to possess interest, involvement, and professional expertise in fields related to their responsibilities (historic preservation and design review). Even the city's preservation planner (should there be one in the future) may not duplicate the commission's collective expertise, assuming decisions were delegated and s/he had the time.

We believe that the commission, not the director or his/her designee, should be the decision-maker on issues regarding historic/landmarked properties. Our detailed comments below suggest a modification to the proposed Type II process that would allow the commission to retain this authority.
3. **Demolition.** We have proposed some improvements to demolition procedures for historic properties that were suggested after the three buildings on University Way were demolished. We have added these to 15.28.090(D) and 15.28.050(A), as well as changed Table 15.21.050(B).
4. **Sign review, including murals,** on which the need for a policy was highlighted by recent installations. We have added this kind of sign to Chapter 56, with a definition in 15.13.130 and related changes in 15.22.020(B) and 15.28.090. Other comments on Article 5 are also included in the detailed comments that follow.

NOTE: The Landmarks & Design Commission has made some changes to the Landmarks Code (15.28) and requests these changes be cross-referenced to the upcoming Building Code revisions – specifically, the demolition section. The primary foci of these changes include the ability of the city to place publicly owned eligible historic properties on the Ellensburg Landmarks Register (ELR); the removal of the exemption of single family houses on the ELR from having to comply with the terms of the Certificate of Approval Process; and the drafting of additional language in the proposed Demolition section of the building code. The purpose for these proposed changes is to bring these sections of the Land Use Code and Building Code into alignment with the Comp Plan and the Energy Efficiency and Conservation Strategy, along with the stated goals of 15.28.

**Landmarks and Design Commission
Detailed Comments on Land Development Code Update**

15.13 Definitions ...

15.13.030 A definitions.

Arts commission. "Arts commission" means the duly constituted arts commission of the city of Ellensburg. [Ord. 3587 § 1, 1987; Ord. 3269 § 1, 1980.]

15.13.030 C definitions.

Certificate of approval or COA. "Certificate of approval" or "COA" means the approval issued by the landmarks and design commission for alterations to a designated landmark, or to a property located within a landmark historic district, certifying the changes as having no adverse effect on the significant features of the property that contributed to its designation.

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Class of properties eligible to apply for special valuation in the city of Ellensburg.

"Class of properties eligible to apply for special valuation in the city of Ellensburg" means only those properties listed on the Ellensburg landmarks register or the National Register of Historic Places, or properties contributing to an Ellensburg landmarks register historic district, which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

Commission.

15.13.080 H definitions.

Historic resource inventory. "Historic resource inventory" means the city-maintained list of historic properties that have been surveyed and documented by or on behalf of the city.

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Historic properties. "Historic properties" are those buildings, structures, sites and districts that are 50 years of age or older.

15.13.120 L definitions.

Landmarks and design commission. "Landmarks and design commission" means the duly constituted landmarks and design commission of the city of Ellensburg. [Ord. 4245, 2000.]

Mural. A "mural" is a work of visual art, which may include historic advertising (advertising that is itself at least 50 years old) only, painted directly on or on materials attached to a building.

15.13.160 P definitions.

Planning commission. "Planning commission" means the duly constituted planning commission of the city of Ellensburg. [Ord. 2810 § 2.02, 1970.]

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15.21 Permit Review Process “Types” ...

15.21.020 Determination of proper permit review process type. (NEW) ...

D. Decision-maker(s). Applications processed in accordance with subsection (B) of this section which have the same highest numbered procedure but are assigned different hearing bodies shall be heard collectively by the highest decision-maker(s). The city council is the highest, followed by the hearing examiner or landmarks and design commission or planning commission, as applicable, and then the director.

15.21.030 Permit review process types, defined. (NEW) ...

B. Review Process Type II. Unless otherwise specified, the director makes these decisions based on standards and clearly identified criteria. These decisions require public notice but typically do not include a public hearing. This process type requires that the reviewing authority issues a written report that sets forth a decision to approve, approve with modifications, or deny the application. The reviewing authority's report will also include any threshold determinations under SEPA or critical area final determinations under ECC Article 6. Such projects are appealable to the hearing examiner.

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15.21.040 Permit review process types: Decision-making, procedures & notice requirements. (NEW)

Table 15.21.040(A) Decision making and appeal process for permit review process types.

	Type I	Type II	Type III	Type IV	Type V
Final decision made by:	Director	Director or Designated body	Hearing Examiner or Designated body	City Council	City Council
Recommendation made by:	NA	NA	NA	Designated body	Planning Commission
Open record predecision public hearing - decision	No	No	Yes	Yes	Yes
Open record appeal public hearing - appeal	No	Yes	No	No	No
Closed record appeal hearing	No	No	Yes	No	No
Appeal to:	Superior Court	Hearing Examiner	Hearing Examiner (if decision by Designated Body, Otherwise by City Council)	Superior Court	Superior Court or to the Growth Management Hearings Board if GMA action
Judicial appeal (see ECC 15.23.110)	Yes	Yes	Yes	Yes	Yes

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15.21.050 Projects under permit review process types. (NEW)

Table 15.21.050(A) Projects under Type I review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type I project ¹	Decision-making, procedures or noticing variation from ECC 15.21.040	Relevant ECC chapter or section(s)
Administrative decision	No variation	15.13.010(D)
Permitted use	No variation	Chapter 15.31
Commercial wireless communication support towers, antenna arrays and facilities in residential zones	No variation <u>except prohibited in landmark districts</u>	15.34.080
Boundary line adjustments	No variation	15.26.050
Plat vacation	No variation	15.26.080(B)
Plat alteration	No variation	15.26.080(C)
Final subdivision Approval	Final decision by City Council; See 15.26.070	15.26.070
Final short subdivision approval	See 15.26.090	Chapter 15.26
Formal code interpretation	No variation	15.11.060(E)
Minor changes to approved preliminary subdivision	No variation	15.26.080
Non-conforming use Determination	No variation	Chapter 15.24
Critical area allowed activity	No variation	Article 6
Critical area final determination	No variation	Article 6
Site development permit	No variation	15.26.090
Small wind energy system (one per parcel) ²	No variation <u>except prohibited in landmark districts</u>	15.34.070
<u>Signs – except landmarks register</u>	<u>No variation</u>	<u>15.25.030</u> <u>Chapter 15.56</u>
Home occupation	No variation	ECC 15.34.020

Notes/conditions:

1. If any Type I project requires a SEPA threshold determination it automatically becomes a Type II project.
2. Where more than one small wind energy system is proposed for a parcel, then a conditional use permit is required.

Table 15.21.050(B) Projects under Type II review process.

Type II project	Decision-making, procedures or noticing variation from ECC 15.21.040	Relevant ECC chapter or section(s)
Code interpretation	No variation	15.11.060(E)
Temporary use	No variation	15.25.010
Design review, minor project	No variation	15.25.030 Article 5 (Project Design)
Minor project design review with departure(s) request Design review with departure(s) request	No variation Decision by landmarks & design commission at a public meeting (see ECC 15.13.160)	
Design review, major project	Recommendation by Landmarks & Design Commission at a public meeting (see ECC 15.13.160) No variation	15.25.030 Article 5 (Project Design)
Commercial wireless communication support towers, antenna arrays and facilities in commercial and industrial zones	No variation; prohibited in landmark districts	15.34.080
Signs – major project or landmarks register and historic resource inventory	Recommendation Decision by Landmarks & Design Commission at a public meeting (see ECC 15.13.160); Appeal open record to Hearing Examiner	15.25.030 Chapter 15.56
Landmark certificate of approval (COA)	Landmarks & Design Commission recommendation decision after public meeting; decision by director; Appeal open record to city council	15.28.090
Landmarks register listing	Landmarks and design commission recommendation after public meeting; decision by director; Appeal open record to city council; Landmarks and design commission decision after public meeting; Appeal open record to city council	15.28.080
Landmarks register and historic resource inventory demolition	Landmarks & Design Commission decision after public meeting; Appeal open	15.28.090

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	record to City Council	
Short subdivision, preliminary	No variation	Chapter 15.26 (Subdivisions) Article 4 (Community Design)
Critical area initial determination	No variation	Article 6
Critical area exemption	No variation	Article 6

15.22 Permit Review Procedures ...

15.22.020 Application. (NEW) ...

B. Submittal requirements.

List of materials to be submitted with application for a mural:

1. Drawings (elevation, site plan), photographs of building, map of land uses within 300'
2. Written description, including materials used and how mural will be affixed
3. Color image of mural and artist's portfolio
4. Plans for financing, installing, maintaining the mural
5. Authorization from property owner

15.24 Nonconformance (13.46)

15.24.010 Purpose. (13.46.020) ...

C. Encourage the adaptive re-use of existing non-conforming public facilities, which will continue to serve the community, and to ensure public review of redevelopment plans by allowing:

1. Temporary re-uses of closed public school facilities retained in school district ownership, and the reconversion of a temporary re-use back to a school use;
2. Permanent re-use of surplus nonresidential facilities (e.g., schools, fire stations, government facilities) not retained in school district ownership; or
3. Permanent re-use of historic structures listed on the Ellensburg historic resource inventory and accepted by the city council.

D. Encourage the re-use of all historic properties eligible for the Ellensburg landmarks register.

15.24.050 Nonconforming structure. (NEW)

Except for properties on the Ellensburg historic resource inventory, no nonconforming structure may be expanded, enlarged, or extended where they increase an existing nonconformity.

Nonconforming buildings may be repaired, maintained and rebuilt provided such work does not increase an existing nonconformity.

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15.25 Review and Decision Criteria ...

15.25.020 Site development permits – Type I or II review process. (NEW)

A. Purpose. ...

7. (NEW) Preventing adverse impacts to historic properties.

15.25.030 Design review – Type II review process. (Chapter 1.45)

A. Purpose.

1. To promote the public health, safety, and general welfare of the citizens of the city;
2. To recognize that land use regulations aimed at the orderliness of community growth, the protection and enhancement of property values, the preservation of historic properties, the minimization of discordant and unsightly surroundings, the avoidance of inappropriateness and poor quality of design and other environmental and aesthetic objectives provide not only for the health, safety and general welfare of the citizens, but also for their comfort and prosperity and the beauty and balance of the community, and as such, are the proper and necessary concerns of local government;
3. To increase awareness of design considerations among the citizens of Ellensburg; and
4. To create a review process that balances flexibility and predictability for applicants, staff, public officials, and community members. ...

B. Definition of minor and major project design review.

Both major and minor design review projects, as defined in ECC 15.13.130, are reviewed for conformance with applicable land use and zoning provisions in Article 3, applicable community design provisions in Article 4, and applicable project design provisions in Article 5, plus other applicable provisions set forth in the LDC. Due to their size, major design review projects require additional review, as set forth in subsection (C) of this section below.

Exceptions: All activities involving the exterior modification of any property that is on the landmarks register must undergo design review as set forth in ECC 15.28.090.

The director, however, shall have the authority to determine if a minor exterior modification to a non-landmarks register property is not significant, and therefore does not require design review, based on factors such as the scope, location, context and visibility of the change or modification. The director may determine that design review is not required for such minor exterior modifications including, but not limited to: repainting structures to similar colors; relocating, modifying or adding mechanical equipment; reorganization of portions of parking lots involving less than 5 spaces; modifications to locations of existing lighting; or minor changes to existing approved landscaping. Except for landmarks register properties, there shall be a rebuttable presumption of nonsignificance, and therefore no requirement of a design review, if all of the following conditions are met:

- a. The cost of the work does not exceed 15 percent of the structure's current Kittitas County assessed value as of the time the initial application for the work is submitted;
- b. There is no additional structure or parking lot, or any enlargement of or addition to an existing structure or parking lot;

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- c. The work does not result in a reduction in the landscaped area;
 - d. The work does not remove or diminish an existing perimeter landscape screen area;
 - e. The work does not include new or additional service or mechanicals areas; and
 - f. The work does not include additional exterior lighting or a new or enlarged exterior sign.
- If there is no current Kittitas County assessed value for a structure, a current appraisal of the structure, which shall be provided by the applicant and acceptable to the director, shall be used as the value point of reference for the structure.

C. Procedures. Minor and major design review projects are subject to the Type II review process as set forth in ECC Chapter 15.21, with the following exceptions:

1. Major design review projects require a pre-application meeting (see ECC 15.22.010); and
2. Projects which include one or more departure requests require a review and approval by the landmarks and design commission at a public meeting as defined in ECC 15.13.160. The proceedings at a public meeting may be recorded and included in the permit application file. Public notice for a public meeting shall be the same as set forth for a public hearing (see ECC 15.23.020). ...

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15.25.070 Master site plans for regional retail commercial projects – Type IV review process. (13.25.070 and 13.25.110)

COMMENT: The landmarks and design commission appreciates its continued role in this process and thinks the proposed code is much improved from the current one.

C. Decision criteria. ...

9. Types of uses and development permitted. Uses defined as “regional retail commercial” development in ECC 15.13.180. In addition, the uses allowed outright in the C-Tzone are allowed in a regional retail commercial development located in the C-Tzone. The uses allowed outright in the C-H zone are allowed in a regional retail commercial development located in the C-H zone; and

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10. The regional retail commercial master site plan and subsequent development shall comply with applicable project design provisions of ECC Article 5. Where there is a conflict between the provisions of ECC Article 5 and this section, the provisions of this section shall apply.

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15.25.080 Comprehensive plan amendments – Type V review process. (NEW)

C. Procedures.

4. Review of text and map amendments. The city may request other city boards or agencies or other governmental entities to provide comments and recommendations on comprehensive plan amendments. The comments and recommendations must be submitted to the city by the date of the planning commission's hearing unless the city grants an extension of time. In proposing any changes to its comprehensive plan, the city shall notify the department of community, trade and economic development (CTED) [this agency no longer exists; which agency should be here instead?] of its intent to adopt such amendments at least 60 days prior

to final adoption. The city shall transmit a complete and accurate copy of its comprehensive plan to CTED within 10 days of adoption in accordance with state law.

15.27.120 Threshold determinations

D. Environmental checklist.

3. The responsible official shall use the environmental checklist to determine the lead agency. If the city is the lead agency, information provided in the environmental checklist, critical area information form or critical area report and/or COA application shall assist the responsible official in making a threshold determination.

15.28 Ellensburg Landmarks Register & Procedures
(Chapter 1.45) ...

15.28.010 Short title. (1.45.040)

The following sections shall be known and may be cited as the "landmarks and design ordinance" of the city of Ellensburg, [Ord. 4245, 2000.]

15.28.040 Members, qualifications and terms. (1.45.200) ...

C. The commission shall include at least 2 owners of property within the downtown and First Railroad Addition historic districts, as defined in 15.30.060(B) and (C) or a property individually listed on the Ellensburg landmarks register. One member shall be a representative designated by the Ellensburg Downtown Association (EDA) for a term of 4 years. One member shall be a general at-large position. The commission shall include at least 3 professionals (active or retired) who work or worked among the related fields of history, architecture, construction, landscape design, historic preservation, planning, anthropology, archaeology, cultural geography, American studies, land use law, or real estate.

15.28.050 Powers and duties. (1.45.240)

The primary role of the Ellensburg landmarks and design commission is two-fold: historic landmarks preservation and design review.

A. Historic landmarks preservation. In the area of historic landmarks preservation, the primary role of the Ellensburg landmarks and design commission is to identify and actively encourage the conservation of Ellensburg's historic resources through a register of landmarks and historic resources and a review of proposed changes to landmarks; to raise community awareness of Ellensburg's history and built environment; and to serve as the city's primary resource in matters of heritage, historic planning, and preservation. In carrying out these responsibilities, the Ellensburg landmarks and design commission shall engage in the following:

1. Conduct and maintain a comprehensive Ellensburg historic resource inventory; publicize and periodically update inventory findings. Properties included in the inventory shall be noted on official zoning records with an "HI" (for historic inventory). This notation shall not modify the underlying zone classification. ...

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13. Provide current information to property owners on techniques and appropriate treatments for maintaining and rehabilitating historic properties. This may take the form of pamphlets, newsletters, workshops, or similar activities.

14. Compile a list of historic preservation consultants, building movers, and available vacant lots to assist in avoiding demolition of historic buildings. Consider proposing a property maintenance ordinance to assist with mothballing vacant historic buildings.

15. Conduct educational and interpretive programs pertaining to Ellensburg's historic resources.

116. Serve as the local review board for special valuation as provided under Chapter 84.26 RCW and ECC 15.28.110.

B. Design review. In the area of design review, the primary role of the Ellensburg landmarks and design commission is to review and approve projects seeking specific departures and modifications (including signage) to a registered landmark or any property located within a landmark district. See ECC 15.50.030 for information on departures and ECC 15.28.090 for the design review process for landmark property/district related projects. The landmarks and design commission is available to advise any project developer on historical compatibility and to assist in resolving disputes.

15.28.080 Ellensburg landmarks register. (1.45.360)

B. Process for designating properties to the landmarks register (a Type II review process exception). ...

1. Any person may nominate a building, structure, site, object, or district for inclusion in the Ellensburg landmarks register. Members of the landmarks and design commission or the landmarks and design commission as a whole may generate nominations. In its designation program, the landmarks and design commission shall consider the Ellensburg historic resource inventory and the Ellensburg comprehensive plan. Owner(s)' consent is required before the landmarks and design commission's consideration of the nomination, except in the case of non-city publicly owned properties. ...

5. Whenever the landmarks and design commission finds that a nominated property meets the criteria set forth in subsection (A) of this section, the property shall be officially listed as a landmark, landmark site, or landmark district or part thereof. Within 10 working days of the decision about whether to list the property, notice of the decision shall be sent to the property owner(s), the author of the nomination, any lessees, the preservation planner, and the Ellensburg city council. ...

8. Whenever the landmarks and design commission rejects the nomination of all or any part of property, it shall, within 10 working days, issue a written decision including reasons supporting the determination that the criteria set forth in subsection (A) of this section have not been met. Notice of the decision shall be sent to the property owner(s), author of the nomination, any lessees, the preservation planner, and the Ellensburg city council.

9. The landmarks and design commission's decision on a COA may be appealed to the city council in an open record appeal hearing.

C. Downtown and residential historic districts. ...

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3. The provisions of ECC 15.28.090 and 15.28.100(C) shall hereafter apply to the downtown historic district and the First Railroad Addition historic district.

15.28.090 Review of changes to landmarks register properties. (1.45.380)

A. Review required.

1. No person shall alter, repair, enlarge, newly construct, relocate, or demolish any registered landmark, or any property located within a landmark district, nor install any exterior sign or mural pursuant to subsection (A)(2) below, without review by the landmarks and design commission and approval of a certificate of approval (COA). In the case of murals, the arts commission shall also review and provide input to the landmarks and design commission on the artistic content and method of application (colors, artistic design, durability and impact of materials on the building and environment) of any mural proposed to be located within a landmark district or on a listed property.

2. This review shall apply to all exterior features of the property visible from a public right-of-way. This review applies whether or not a permit from the city of Ellensburg is required.

3. Review of alterations to Ellensburg landmarks register properties under this chapter is in lieu of design review required for projects and sign review per ECC 15.21.050(B).

B. Exemptions. The following activities are exempted from landmarks review and do not require a COA: maintenance and repairs in-kind which do not alter the historic character-defining exterior features visible from a public right-of-way and do not utilize substitute materials; repairs to or replacement of utility systems which do not alter exterior features visible from a public right-of-way; and all interior work, ...

C. Review process - (a Type II review process exception).

1. Requests for review and issuance of a certificate of approval.

a. Application for a COA shall be made by filing an application for such certificate with the preservation planner on forms provided by the department. A written description of materials required for the landmarks and design commission's review, including but not limited to site plans, elevations, and material samples, shall be provided to the applicant. Preliminary plans may be submitted to the preservation planner for review and an advisory opinion. ...

2. Landmarks and design commission review.

a. At a regularly scheduled public meeting, the landmarks and design commission shall review the proposed work according to the design provisions set forth in ECC 15.53.020 and other relevant sections of Article 5 of this title. After concluding the public meeting, the landmarks and design commission shall approve or disapprove the application. Approval of projects shall be based upon appropriateness of design as reflected in said provisions.

b. The landmarks and design commission may approve with or without conditions or disapprove of an application. The decision of the landmarks and design commission shall be rendered within 15 working days of the date of receipt of a completed application, unless the parties agree to an extension. The landmarks and design commission's findings in support of any decision shall be in writing and shall cite the applicable design provisions.

Deleted: both major and minor

Deleted: appearance of

Deleted: Except for exterior changes to properties on the historic resource inventory, Changes to existing owner-occupied single-family homes, both exterior and interior, are exempted from landmarks review, and do not require a COA. Single-family homes applying for incentives are not exempt.

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c. If the landmarks and design commission makes a decision to issue a COA, such certificate shall be promptly issued to the applicant by the preservation planner and a copy of such certificate shall be transmitted to the building official.

d. If the landmarks and design commission denies the application, the applicant and the building official shall be notified of such denial, including the reasons why approval of the application is not warranted.

e. The director's decision on a COA may be appealed to the city council in a closed record appeal hearing.

D. Demolition. NOTE: This section should provide citation placeholders to demolition code language to be developed by new building official in building code.

Application for a COA for whole or partial demolition of a property listed in the Ellensburg historic resource inventory shall be reviewed by the landmarks and design commission in accordance with the procedures set forth in subsection (C) of this section and ECC 15.28.100 with the following exceptions:

1. The landmarks and design commission shall meet initially with the applicant to consider alternatives to demolition, including available incentives for preservation and the possibilities of moving, mothballing, or deconstructing the building [citation]. These negotiations may last no longer than 120 days from the first meeting of the landmarks and design commission, unless either party requests an extension. During these negotiations, the applicant should allow the commission to review its site and building plans for the replacement building and evidence of the applicant's financial ability to construct the replacement building. A demolition notice must also be placed on the property and published in the newspaper. Construction must begin within one year after demolition.
2. If no request for an extension is made and the existence of a condition of unreasonable economic return, as set forth in ECC 15.28.100 and [same citation], has been proven and no alternative to demolition has been agreed to, the landmarks and design commission shall issue a COA to the applicant. The preservation planner shall promptly transmit a copy of such certificate to the building official.
3. The landmarks and design commission may require conditions of approval including, but not limited to, mitigation measures.
5. Any person aggrieved by any action of the landmarks and design commission in denying or approving a demolition request may file a notice of appeal as set forth in Chapter 15.23, however, such appeal shall be to city council rather than to the hearing examiner.

15.30 Zones, Maps and Designations ...

15.30.050 Commercial and mixed-use zones,,,

D. Residential office zone (R-O).

8. (NEW) Encouraging historic preservation or adaptive re-use of historic properties.

9. Use of this zone is appropriate for: ...

Deleted: The director shall then review the record and the recommendation and findings of fact from the

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Deleted: landmarks register, or located in an Ellensburg landmark district,

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Deleted: make a recommendation for approval to the director

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Deleted: 4. The director shall review the record and the landmarks and design commission recommendation and shall make a decision to approve the issuance of a COA or to deny the demolition application

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G. Light industrial zone (I-L).

COMMENT: the reason for suggesting this deletion is that allowing them in I-L erodes the idea that the historic downtown is the center for these uses and will discourage continued use and rehab of historic buildings. This comment is not to preclude ancillary uses such as a brewpub in a brewery.

Deleted: 2. Providing for eating and drinking establishments that serve other permitted uses in the zone;¶
3. Providing for offices as an accessory use, except where owners have purchased development rights from county properties within defined sending areas (subject to the city's adoption of a¶ TDR program);¶

15.31 Permitted Uses

15.31.040 Use tables.

COMMENTS:

Residential – footnote needs to be added to table stating that ground floor residential is prohibited within 30’ of the sidewalk in the C-C and C-CII zones according to 15.51.050(E).

Retail – Unless ancillary to general retail activity, Greenhouses & Nurseries should not be allowed in C-C or C-CII because they are land-intensive, and since vacant land is at a premium in these zones, this use should be prohibited as competing with other retail uses that require less land.

Hospitals in CC?? Why? Ditto nursing homes and Schools and Interim Recycling Facilities and Utility Facilities.

UNDER NO CIRCUMSTANCES SHOULD SMALL WIND ENERGY SYSTEMS OR ADDITIONAL WIRELESS COMMUNICATIONS FACILITIES BE ALLOWED IN EITHER HISTORIC DISTRICT.

15.32.030 Form and intensity standards table – Residential zones. (NEW)

Table 15.32.030 Form and intensity standards table – Residential zones.

Development conditions:

12. Accessory structures and accessory dwelling units, where built on top of an existing garage that abuts an alley, may be built to a property line abutting an alley, provided sufficient turning movement and emergency vehicle access is provided within the alley. However, when the structure and/or unit is accessory to a property on the historic resource inventory, the process outlined in 15.28.090 shall be followed.

15.33 Density Bonus Incentives

15.33.010 Purpose. ...

E. To encourage the preservation of valuable resource lands outside of the city, and to encourage the preservation or adaptive re-use of historic resources inside the city.

15.33.020 Density bonus system for the R-S and R-L zones. (NEW) ...

E. Historic preservation. ...

2. Eligibility. Properties eligible for this density bonus option must feature a property that is eligible for historic landmark listing under the Ellensburg landmarks register, per ECC 15.28.080. Subject properties must be in habitable or usable condition, or improved to habitable or otherwise usable condition. Developments may also receive the density bonus

credit if they are moved to another site within the city provided the applicable structure or site meets applicable standards set forth in this Title.

Deleted: structurebuilding/

15.34.070 Small wind energy systems. (NEW)

C. Where permitted.

3. SWES systems are not permitted on properties on the historic resource inventory.

15.34.080 Commercial wireless communication support towers, antenna arrays and facilities. (15.34.400-700) ...

D. Facilities within an Ellensburg landmark district.

Construction of a wireless communication support tower, wireless communication antenna array or wireless communication facility on properties on the historic resource inventory is not permitted.

Deleted: within an Ellensburg landmark district are subject to the procedures set forth in ECC 15.28.090

Article 5: Project Design

15.50 Introduction ...

15.50.030 How the provisions of this article are applied. (NEW) ...

D. **Departures** are provided for specific standards. They allow alternative designs provided the reviewing authority determines the design meet the purpose of the standards and guidelines and other applicable criteria. See ECC 15.21.060 for related procedures associated with departures. All projects featuring one or more departure requests will be reviewed approved by the landmarks and design commission at a public meeting as set forth in ECC 15.25.030(C). The reviewing authority shall document reasons for approving all departures (to be maintained with project application records) for the purpose of providing consistency in decision-making by the city. See ECC Chapter 15.21 provisions for Type II projects for further details.

....

15.51.040 Street frontage type maps. (NEW)

Figure 15.51.040(A). Index map for street frontage type designations.

NOTE: insets have wrong numbers: 14.XXX should be 15.XXX.

Figure 15.51.040(B) sets forth street frontage type designations for the greater Downtown area, which is roughly bounded by West 9th Avenue in the north, the railroad in the west, Mountain View Avenue in the south, and Walnut Street in the east. (NOTE TO REVIEWERS: The streets surrounding the courthouse have been changed from Secondary to Storefront per council member comments received) Other storefront streets need to be extended in downtown.

Figure 15.51.040(C) sets forth street frontage type designations for the Canyon Road corridor/south interchange area.

Why is there a separate designation (Secondary Street 2 for one project?

Figure 15.51.040(D). Street frontage type designations for the west interchange area.
Dolarway/3rd Avenue should be a gateway street.

15.51.050 Storefront Street standards.

A. Applicability. Except in the downtown historic district, the standards herein shall apply to all designated Storefront Streets per ECC 15.51.040.

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C. Parking location. [see Figure 15.51.050(B)]

Parking shall be located to the rear, below, or above storefronts. Where some off-street parking (both surface and structured) adjacent to the storefront street is unavoidable, except in the downtown historic district, no more than 60 feet of frontage shall be occupied by parking and vehicular access. New parking lots adjacent to street corners shall be prohibited.

G. Weather protection.

NOTE: Figure 51.050(A) is inconsistent with text (north & east vs. south & west).

I. Ground floor and façade heights.

1. The ground floor shall have a minimum floor-to-floor height of 15 feet, as measured from grade.

2. All storefront facades shall maintain a minimum height of 20 feet.

NOTE: These two requirements are confusing – how do they differ?

Deleted: ¶

15.51.060 Secondary Street standards. (NEW) [see Figure 15.51.060(A)]

D. Parking location. [see Figure 15.51.060(B)]

No more than 50% of the street frontage can be occupied by off-street parking and driveways. DEPARTURES will be considered pursuant to ECC 15. 21.060 and ECC 15.51.130 below.

COMMENT: why are we allowing 50% for streetfront parking? Wouldn't 25% work just as well and prevent a Canyon Road-type landscape?

15.51.080 Landscaped Street standards. (NEW) [see Figure 15.51.080]

G. Parking location. No more than 50 percent of the street frontage can be occupied by offstreet parking and driveways. DEPARTURES will be considered pursuant to ECC 15.21.060 and ECC 15.51.130 below.

COMMENT: why can't we allow only a driveway leading to parking at rear, side, or underneath of building? 25% is plenty!

15.53.030 Architectural scale. (NEW)

G. Maximum façade width. [see Figure 15.53.030(G)]

NOTE: Text (120') is inconsistent with figure (100').

....

15.56 Signage (To replace current Chapter 3.12)

15.55.020 Scope. (current 3.12.040)

NOTE: this section should be numbered 15.56.020.

All signs erected on properties that are on the Ellensburg landmarks register (see ECC 15.28.080) shall meet the requirements of this chapter and shall also undergo design review pursuant to the requirements in ECC 15.28.090.

COMMENT: In general, the landmarks and design commission is pleased with the proposed sign code and thinks it reflects our input over the years.

15.56.145 Murals. (NEW)

Murals, as defined in 15.13.130, shall conform to the following requirements:

- A. Permitted number of murals. Only one mural will be permitted on a building at a given time.
- B. Minimum and maximum sizes. Murals should not be less than 32 square feet and shall not exceed 60 square feet in area. Exception: Where large expansive planar walls over 2,000 square feet in uninterrupted area occur, larger murals may be permitted provided that they do not overwhelm the size, scale, design and historic integrity of the building.
- C. Location and design
 - 1. Murals shall not be permitted on unpainted brick (?), unpainted or painted stone (?), wood sidings with surface detail, or any other material that does not have a planar or fiat character. The surface to which the mural will be applied must be in good condition prior to the installation.
 - 2. Murals shall not overlap or be incompatible with existing architectural details.
 - 3. Murals on Landmark Register properties and Historic Resource Inventory properties must complement the architectural and historical character of the historic district, reinforce the architectural features of the building on which they are located, and be compatible with the appearance of adjacent buildings and community character.
 - 4. Murals may not have electrical or mechanical components.
 - 5. Three-dimensional murals are not allowed.
 - 6. Murals must not be located on the primary street façade of buildings.
 - 7. Murals must not damage or lead to accelerated deterioration of the building surface.
 - 8. Murals shall not create traffic or safety hazards.
- D. Duration and removal
 - 1. The mural, as approved by permit, shall be maintained without alteration for a minimum of X years. During this time, alterations may be made or the mural may be removed only under the following conditions.
 - a. The building on which the mural is located is sold, or
 - b. The building or property is substantially remodeled or altered in a way that precludes continuance of the mural.

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2. Alterations of the mural after the first X years from date of completion require approval of a new permit through the process in 15.28.090.
3. Removal of the mural after the first X years from date of completion does not require a permit or letter of intent.
4. Any associated materials that were used to affix the mural to the wall must be removed at the time of the removal of the mural. This includes, but is not limited to, mounting hardware or brackets, caulk or grout, and adhesives or glues.
5. Murals shall not be subject to the removal provisions of 15.56.210.

E. Installation and maintenance

1. The artist shall be under contract to complete the installation of the mural.
2. Murals shall be installed for durability and must be maintained by the building owner for the life of the mural or until the mural is removed.
3. Murals shall use materials, coatings, or other protective techniques that will resist vandalism, weathering by sun or water, and graffiti.

F. Existing murals

1. The landmarks and design commission will conduct a survey of existing murals and include those deemed historic in the Ellensburg historic resource inventory.
2. New murals shall not be painted over historic murals. These murals may not be repainted, painted out, removed, or otherwise disturbed unless the structural integrity of the building is at stake.
3. If the building is repainted, it must be done in a way that follows the Secretary of the Interior's Standards for Historic Preservation.

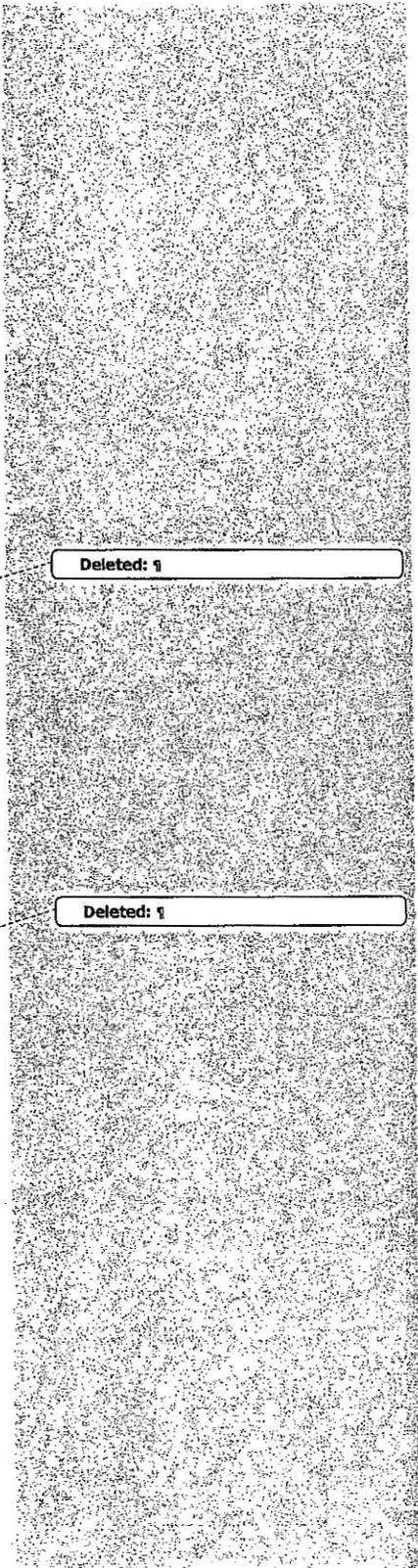
- G. The landmarks and design commission will review the possibility of initiating a program to restore historic murals.

15.56.160 Non-conforming signs. (current 3.12.320)

Signs which were existing and in lawful use prior to the adoption of the ordinance codified in this chapter, except temporary, special signs, special event signs or signs on historic properties, which are not subject to pre-existing sign status, shall be considered nonconforming signs and may continue in use subject to the following requirements:

Article 6: Critical Areas

Footers name this article in all other articles as well.



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