

## Mike Smith

---

**To:** Daniel Valoff  
**Subject:** RE: July 16 LDC meeting

Dan,

My responses are in red below. Feel free to pass them on to the Commission.

Mike

---

**From:** Daniel Valoff  
**Sent:** Tuesday, July 16, 2013 8:24 AM  
**To:** Mike Smith  
**Subject:** FW: July 16 LDC meeting

FYI

---

**From:** Meg Ludlum [<mailto:megludlum@kvalley.com>]  
**Sent:** Tuesday, July 16, 2013 7:46 AM  
**To:** Daniel Valoff; 'Anne Denman'; 'Carolyn Honeycutt'; 'Christina Wollman'; 'David Wheeler'; 'Dorothy Stanley'; 'Fennelle Miller'; 'Fred Krueger'  
**Subject:** RE: July 16 LDC meeting

I took it upon myself to look at the schedule on the city's website rather than waiting for tonight's meeting (I had the council meeting date wrong anyway). It appears we'd do best to comment by the SEPA deadline of Aug. 8. Moreover, our main comments relate to the sections that the council will discuss at a special meeting on July 22. I won't be in town (nor will I be back by Aug. 8), so someone else will have to represent us if we need to appear.

Here are the issues I noticed in my review of the new draft code. Dan, please note that there are some questions for you buried below.

1. Review process – we did manage to retain decision authority for COAs (and COAs are explicitly required for small wind energy systems and communications towers on landmark properties). We also retained a role in reviewing regional retail commercial site plan applications. The new process, however, has us conducting an open-record public hearing (as opposed to just a public meeting) for each COA, though not one for which public notice is required. (And of course we have to document our findings in writing.) No doubt the public hearing fits into the larger scheme of the various process types and procedures associated with each, but I'm not perfectly clear on how. **Dan**, can you explain or ask Mike?

MIKE: Yes, this is because if you are making a decision after the public "meeting", the attorney feels that is a public "hearing" and there can be only one open record public hearing. So as drafted Landmarks holds a public hearing, creates a record and makes a decision. The appeal would then go to Council as a closed record hearing where they would look at the record you created and the decision you made and then make a determination whether the decision was supported by the record. No additional material or testimony is allowed.

We may be able to avoid this by exempting COA decisions from the permit process requirements because of the special nature of landmark review. There is an unpublished court case *Larkin v. City of Medina*, 128 Wn. App. 1030 (2005) in which Medina exempted out COAs from its permit process code and the court found that to be an appropriate exercise of local jurisdictional authority. Under RCW 36.70B.140(1), however, a local government can exclude from RCW 36.70B.060 a project permit 'that the local government by ordinance or resolution has

*determined present special circumstances that warrant a review process different from that provided in RCW 36.70B.060{.} The City determined by ordinance in October 2003 that the historical use permit presents special conditions that warrant a special review procedure. The City therefore properly excluded its historical use permit application review process from the requirements of RCW 36.70B.060.*

*Staff will advise Council of this and see if they want to exempt COAs, in which case we would need to amend Article 2 in the process area and in the Landmarks Chapter.*

Also, while we retained our role in deciding on landmark listings, the process isn't very clear in the code. (Non-geeks, skip this paragraph.) The action of landmark listing was not included in Table 15.210.050(B), perhaps because it's viewed as another form of COA? Landmark listings are specifically excluded from the process requirements by 15.210.010(B)(1) because the listing is more legislative than a permit. But section 15.28.080 isn't very clear that this is so (it's clearer for demolition). 15.28.080 sets forth the process for reviewing a listing request and seems clear to me. Landmark listings and COAs are labeled in 15.280 (the landmarks and design section) as Type II process exceptions, but demolitions aren't. The COA is a Type II process exception because it has a different process than the normal Type II review. The Landmark listing should not be identified as a Type II decision since it is excepted out of the permit processing requirements by 15.210.010(B)(1) – we will correct that. Rather than repeat the Type II process, the Demolition section in 15.280.090(D) states that the process for demolition review is as set forth in (C) which is the COA review Type II process. Our new responsibilities are barely (departures) or not at all (SWES and communications towers) mentioned in 15.280, though all are Type II exceptions in Table 15.210.050(B). 15.280.050(B) identifies the review and recommendation role of Landmarks Commission in regional retail commercial applications and modifications or demolitions of a property involving a Landmark Register property. That needs to be edited to reflect the final-decision role for modifications and demolitions involving Landmark Register property. It also identifies the role of review and decision for all design standard departures and references 15.210.060 which establishes the review process with specific reference to 15.280.050(B), the COA review process. I have viewed SWES and communication towers involving Landmark Register properties as an alteration that would undergo the normal COA process in 15.280.050(B). Nor is the commission's role in departures mentioned in Article 5 (15.500.030D) as we requested. The reference back to 15.210.060 gets you to the specific reference to 15.280(050(B) which then references 15.280.090, the COA process. A bit convoluted, so perhaps we can amend it to reference Landmarks Commission as the Review Authority and add all of the references. I can understand all this as incomplete revisions, but do you (or Mike) think we should suggest further revisions, Dan? If so, what is the specific process for doing that? Simple corrections can be provided to Mike and he will keep a running log of them and advise Council as the review hits certain areas. More detailed policy revisions will require greater discussion by Council prior to directing staff to draft an adopting ordinance.

2. Design standards – as an aside in our exchange about demolition, Mike asked me if the commission thought the design guidelines that are in the current landmarks and design code (ECC 1.45.540) should be included in the new code. He said the consultant thought the new code replaced these design standards, but he thought the commission still needed landmark preservation specific design review guidelines for activity involving register properties. So he added verbatim, not only the design standards for rehabilitation of existing buildings (1.45.540E) but the entire 20-odd pages of existing design standards. I ducked this question earlier, intending to defer to Christina and Fennelle, but now that I think about it, I agree with the consultant. I think we should recommend deleting the existing standards, but I'm not willing to compare them in detail with the new Article 5; I hope the commission can make a summary judgment to include only that Section E. The way Mike has it, the old standards would seem to trump the new ones for landmarks.

Mike: yes, this is something that Landmarks Commission needs to look at. The current design standards have been placed in the new code verbatim as a placeholder. Now that Landmarks Commission will not be performing design review of projects – except if involving a Landmark Register property – most of the design standards are not needed in the Landmark code chapter.

The regional retail commercial design standards do need to be left in the Landmark code chapter as do the rehabilitation of existing building design standards.

My question is how would the Commission review a proposed large store or apartment building in the historic downtown. The rehabilitation of existing building design standards in 15.280.120(E), sub (8) is the only reference to a design standard for “new” buildings and it is very general:

“Design new additions to existing buildings and new infill construction to be compatible with the massing, scale, materials, and architectural features of adjacent buildings.”

Is that enough to go with in the review of a new large building in the historic downtown?

Would you also use the design standards in Article 5 that establish a variety of project specific design requirements?

- 15.510. establishes design standards for specific street frontage types, with the Storefront (15.510.050) frontage type encompassing all of the historic downtown area and Landscaped (15.510.070) frontage type encompassing the historic residential area north of 8<sup>th</sup> Avenue.
- 15.530.020 specifically addresses Building Design for Historic Buildings and Districts and it requires that the design standards for rehabilitation and other applicable sections within the Ellensburg Design Standards (the existing handout design standards that include the design standard text currently in 15.280.120 as well as graphic depictions of what that text means) be used.

3. Departures – in the new code, we have decision authority over all departures from standards. I think we meant to include single family houses or duplexes only if they were landmarks/historic, but there may be an advantage in having a crack at all of these. I just hope it doesn't create a bunch of applications to rubber stamp.

Mike: We may have misunderstood the Commission's request. I believe the rationale was that the departure requests would likely be the more technically difficult to review and it was felt that the Commission had that expertise, whereas staff does not. If it becomes a problem then it can be changed in the future.

4. ADUs – there's identical language in both 15.320.030 and 15.320.100 saying that ADUs above garages abutting alleys may be built to the property line. We had asked to review such a proposal if the structure is accessory to a landmark, but this wasn't added. Perhaps it's implied?

Mike: I view those as alterations of a historic property that requires a COA and would allow the Commission to review each proposal and decide.

5. Non-conformities – we got what we asked for even though the city's land use attorney didn't support us. I don't really remember what this was all about, but I don't see why we'd object.
6. Other miscellany – various comments of ours were not accepted, including corrections of outright errors. Oh, well – I tried, and I won't beat my head against the wall. Mike: I will review the previous materials submitted and address corrections of outright errors.
  - a. Most notably, in some places a statement encouragement of historic preservation was added and in others it wasn't. I don't think these are worth making an issue of.
  - b. Another suggestion of ours that they didn't take was not to require owner approval for listing of non-city owned public properties as landmarks. Also not worth a fight, in my opinion. Mike: Council did not agree with that suggestions.
  - c. References to the preservation planner remain in a few places. We hadn't suggested deleting these, but they grate in the absence of the position. Dan, will it mean your position, then? Mike: At this point Dan is the Preservation Planner and will undergo specific training as opportunities arise. We are required to have a

preservation planner as part of our CLG designation so it is appropriate to identify that in code. Thoughts for the future include contracting out the preservation planner responsibilities.

- d. Of course, they didn't include our comments on demolition (except to add to our duties compiling a list of experts and proposing a property maintenance ordinance to help avoid demolitions) or our proposal on murals, having decided to defer these topics. And now we're almost ready to add murals! Mike: Not included, but also not forgotten. The focus for staff is entirely on the land development code at this time.

Thanks Meg!!

Mike

Meg

---

**From:** Meg Ludlum [<mailto:megludlum@kvalley.com>]

**Sent:** Sunday, July 14, 2013 9:48 PM

**To:** 'Daniel Valoff'; 'Anne Denman'; 'Carolyn Honeycutt ([director@ellensburgdowntown.org](mailto:director@ellensburgdowntown.org))'; 'Christina Wollman'; 'David Wheeler'; 'Dorothy Stanley'; 'Fennelle Miller'; 'Fred Krueger'

**Subject:** RE: July 16 LDC meeting

I would like to see an item added to the agenda to discuss the land use code update. I've reviewed the changes as much as I could bear to and, while they gave us what we most insisted upon, there are a number of changes we requested that weren't made and at least one we didn't request that was. (Never mind that they didn't accept some corrections of obvious errors...not my problem any more).

The urgency of our having this discussion depends on the schedule for taking comments this time. I hope Dan can update us on what was discussed at city council last week. However it may fit in, let it be known that I will be on vacation July 20 – Aug. 19 and not available to work on this.

Meg

---

**From:** Daniel Valoff [<mailto:valoffd@ci.ellensburg.wa.us>]

**Sent:** Friday, July 12, 2013 9:03 AM

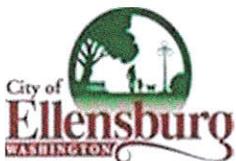
**To:** Anne Denman; Carolyn Honeycutt ([director@ellensburgdowntown.org](mailto:director@ellensburgdowntown.org)); Christina Wollman; David Wheeler; Dorothy Stanley; Fennelle Miller; Fred Krueger; Meg Ludlum

**Subject:** July 16 LDC meeting

LDC Members,

Attached is your packet for the July 16<sup>th</sup> Landmarks & Design Commission meeting. The hard copy is in today's mail.

*Dan Valoff*  
*Senior Planner*



Community Development  
501 N. Anderson St.  
Ellensburg, WA 98926

tel: (509) 925-8608 / fax: (509) 925-8655

[valoffd@ci.ellensburg.wa.us](mailto:valoffd@ci.ellensburg.wa.us)

Please consider the environment before printing this email.