

**MINUTES OF THE**  
Lone Tree Planning Commission Meeting  
September 13, 2016

**Lone Tree Civic Center**

**1. Attendance.**

In attendance were:

- Dave Kirchner, Chair
- Rhonda Carlson, Planning Commissioner
- Daryl Heskin, Planning Commissioner
- Richard Rodriguez, Planning Commissioner
- Kevin Spencer, Planning Commissioner
- Herb Steele, Planning Commissioner
  
- Andrew Dodgen, Vice Chair, was absent

In attendance from staff were:

- Kelly First, Community Development Director
- Hans Friedel, Planner III

**2. Opening of Meeting / Roll Call.**

Chair Kirchner called the meeting to order at 6:30 p.m.

**3. Conflict of Interest Inquiry.**

There were none.

**4. Public Comment (For Items NOT appearing on the agenda).**

There were none.

**5. Minutes of the August 23, 2016 Planning Commission meeting**

Commissioner Heskin moved to approve the minutes, Commissioner Carlson seconded, and the minutes were approved 5 to 0, with Commissioner Steele abstaining due to his previous absence.

**6. Proposed amendments to the City of Lone Tree Municipal Code, Chapter 16, Zoning, Article XXIX, Sign Standards, Project RG16-53.**

Ms. First and Mr. Friedel introduced the proposed changes to the sign standards consisting of consolidating and simplifying categories, updating standards, and updating definitions to achieve content neutrality in line with the precedent regarding 1st and 14th Amendment protections for signs established by the U.S. Supreme Court Case *Reed v. Gilbert* (2015).

Staff recommended that the Planning Commission recommend approval to City Council of the proposed changes to amend the Lone Tree Municipal Code, Chapter 16, Zoning, Article XXIX - Sign Standards.

Commissioner Spencer thanked staff for the presentation. He inquired about Section 16-29-40, Prohibited signs, and why staff proposed to strike that language: (8) "signs associated with a proposed development or proposed zoning prior to City approval of such development or zoning, except for any sign displaying a public notice or warning required by a valid and applicable federal, state or local law, ordinance or regulation" Mr. Friedel responded that this was due to it referring to specific content; therefore, it made more sense to strike the provision. Signs on properties under development were covered under the temporary sign categories.

Commissioner Heskin asked about vehicle-mounted signage as it relates to vehicles in residential areas with advertising on them. Ms. First responded that advertising on private vehicles is not regulated; however, on commercial property, vehicles associated with the business are generally required to be parked behind the building or in some other inconspicuous area – they are not allowed to be *bona-fide* signs. Some signage is allowed on vehicles to provide for car dealership to have "for sale" signs on vehicles. Mr. Friedel added that if a vehicle is parked on a public street for more than 72 hours, and not moved, it can receive a ticket from the Police Department.

Commissioner Heskin thought prohibiting signs in the public right of way (ROW) was good as it reduced visual clutter.

Commissioner Steele thanked staff for the comprehensive analysis. He inquired how prohibiting signs in the ROW achieved content neutrality. Staff responded that the relationship here was that certain types of content-based categories of signs are allowed in the ROW and not others.

Commissioner Steele expressed concern that the code defines "Temporary sign" as a "sign intended to display either commercial or noncommercial messages of a transitory or temporary nature" and that "commercial or noncommercial messages" related to content – there were other definitions with similar wording. Ms. First read it as more of a reinforcement of the substitution clause. Commissioner Rodriguez recommended deleting commercial or noncommercial message from the definitions. There was a discussion regarding how to revise these to be content neutral. Mr. Friedel responded that staff could strike

references to commercial and noncommercial speech from the definitions and replace it with "any sign".

Commissioner Steele inquired about enforcement and penalties for violators. Mr. Friedel responded that Zoning Enforcement's goal was compliance; therefore, the issuance of court summons and fines was rare. Illegal signs in the ROW were picked up by Zoning Enforcement on a regular bases, the offending party contacted and informed of our standards, and the unclaimed signs disposed of.

Commissioner Steele inquired about regulating signs that people twirl and wave on sidewalks in the public ROW. He stated that it was distracting to motorists. Ms. First and Mr. Friedel responded that people carrying signs on public streets were broadly protected by the First Amendment. Mr. Friedel added that the intent of these post *Reed* revisions was to change as little as possible in our standards – as they work quite well, while achieving content neutrality and consistency. Regulating signs that people carry would be reaching into an entirely new territory of potential free speech issues. Staff felt that this would open the City to risk of litigation.

Commissioner Steele noted that the proposed revisions substituted "works of art" with "site elements"; however, this was not defined. Ms. First responded that site elements referred to bike racks, benches, etc. Mr. Friedel responded that staff would craft a definition for "site elements" and add it to the definitions section.

Commissioner Steele asked who "Director" referred to. Ms. First responded that this was defined as her earlier in the code.

Commissioner Steele asked about clarifying flag definition to include flags that were displayed hanging from a building, not necessarily from a pole. Commissioner Spencer recommended using the word "suspended." Mr. Friedel responded that he would add language covering suspended flags to the definition of flags.

Commissioner Steele inquired how the city would educate HOAs as to the changes once they took effect. Ms. First responded that the HOA summit, an article in the Timberlines newsletter, and the website would provide ample outreach opportunities. Also, information about garage sale signs will be provided when residents pick up their signs.

Commissioner Carlson stated that her questions were covered by others.

Commissioner Rodriguez discussed the issue of regulating sign twirlers, those wearing sandwich board signs, and those holding signs in the ROW and on sidewalks. He believed that this could be done in a content-neutral way, and distinctions made between a sign, and graphics on shirts, etc., preventing the regulation from becoming a government overreach. He believed you could make

a content neutral standard for signs in the ROW, and sandwich board signs. He recognized that this may be outside of the scope of this proposed series of revisions.

Commissioner Rodriguez further inquired about where the ROW was throughout Lone Tree. Mr. Friedel responded that it varied and in some places it was back-of-curb, and in others back-of-sidewalk. Outreach and informational materials, including a self-serve permit for temporary signs, would be created post-approval of these revisions to clarify sign placement throughout the city.

Chair Kirchner asked about eliminating all signs in the ROW as it relates to single family detached subdivisions. Chair Kirchner asked about open house signs within the property itself. He wanted clarification on whether flutter flags, sail banners, etc., would be covered under the temporary sign category as defined. He stated that realtors often use these in open house events on the property where the open house is occurring.

Chair Kirchner asked about location of special event signs on city property. Mr. Friedel responded that if the sign was out of the ROW, but on a public property, the City would act as a property owner and it would require permission from the City.

Commissioner Spencer motioned to recommend approval of the sign standards as amended to:

1. Define site elements
2. Clarify regulation of flutter flag/ sail banners within the temporary sign category
3. Strike language referring to "commercial and noncommercial messages" from the definitions

Commissioner Steele seconded, and the motion passed 6 to 0.

## 7. Adjournment.

There being no further business, Chair Kirchner asked for a motion to adjourn. Commissioner Heskin moved to adjourn, Commissioner Steele seconded, and the meeting was adjourned at 7:45 p.m.

These minutes have been reviewed and confirmed by

 (name), on 12/13/2016 (date)  
DAVID L. KIRCHNER