

PLANNING COMMISSION

MINUTES

October 2, 2012

Members Present:	Lynne Thomas-Roth Glynn Marsh	John Bruns Mayor O'Callaghan
City Staff Members Present	John P. Applegate Joe Moore	Denise Winemiller

Mrs. Thomas-Roth called the Planning Commission meeting to order.

Attendance was taken and all members were present.

1. Minutes of April 5, 2011 meeting.

Mrs. Thomas-Roth asked if there were any corrections or additions from the minutes of April 5, 2011. There were no changes so Mr. Marsh moved that the minutes be accepted as prepared. Mr. Bruns seconded the motion. Mayor O'Callaghan abstained and the other planning commission members voted in favor of the motion. The April 5, 2011 minutes were accepted as prepared.

2. Discussion of proposed new sign regulations.

Mr. Applegate introduced attorney Mr. Kevin Lantz who was attending the meeting and had been asked to review the city's current sign regulations. Mr. Joe Moore, Union's law director was also present. Mr. Applegate suggested that they start from the beginning of the sign regulations and go through the code to the end.

Mr. Lantz said Mr. Applegate and Mr. Moore had been very responsive to his suggestions. He said through an error in transmission of the changes, the copies of the sign regulations that had been provided to the planning commission

did not have page numbers and had strike-throughs where they did not exist so he said he would try to be very particular in their discussions.

Mr. Lantz said as these sign regulations had been changed and updated through the courts, it was very difficult to get the wording just right. Mr. Lantz said he has consulted with a number of jurisdictions concerning the sign regulations and had also litigated sign cases through state and federal courts and he tried to keep things current.

Mr. Lantz said there was a case he came across that day that concerns him and they will discuss that also.

Section 1341.01 deals with the purpose of the regulations. Purpose statements have become more necessary now. The courts view some community interests as valid without additional support, such as traffic/pedestrian safety and community esthetics but they want to see a purpose statement in the regulations. The one that Union has is somewhat generic but mentions esthetics and safety. Mr. Lantz has inserted some more particulars, specifically in subsection (f). Mr. Applegate pointed out this is a new proposed addition to the sign regulations.

Mr. Lantz said the findings are new and that can be incorporated into the existing code. The findings are additional support for traffic/pedestrian safety and community esthetics, as detailed as possible to satisfy the courts.

Mr. Lantz further checked with Mr. Applegate on traffic counts and was told the count was fairly accurate. He had forwarded three studies on traffic safety and signs to Mr. Moore. This dealt with signs as distractions.

He also included a study about driver inattention concerning glances of more than two seconds increases the risk of accident. He mentioned other studies that would provide further support for the purpose of the regulations.

Mrs. Thomas-Roth asked why Martindale Road wasn't included as one of the basic thoroughfares. Mr. Lantz said that he looked at Montgomery County Regional Planning commission traffic counts and if West Martindale is important, he said he could include it. Mr. Applegate said that a portion of the regulations

mentioned the business district and that would include the traffic counts for Martindale Road.

The next section is on permanent signs and a number of changes have been made on the first draft. Subsection 16, billboards are not permitted in the city. Other additions are sections 17 and 18.

Mr. Lantz read through some other changes and a reordering of some of the items. One addition is if there was a business with separate lots, using one lot as a parking lot, a sign would be allowed on each lot for the same business for the same owner.

For an industrial park, regulations would allow for a sign showing all of the businesses located in the business park.

Mr. Bruns asked if the other members could follow what Mr. Lantz was saying. He said it was difficult to follow the code in the copies and he was trying to make notes. Mr. Marsh agreed.

New copies were made from Mr. Lantz's copies to distribute to the planning commission.

There was a discussion about political signs and banners that have appeared in the city, one being at a church, and if that was permitted. Mr. Bruns asked if they needed to enforce that. Mr. Bruns asked if there was something that would allow those things in specific cases. He suggested they look at that, like allowing a banner for ninety days. Mr. Lantz said that could be covered by a variance.

Mr. Bruns commented on signs prohibited in public right-of-ways and in another place, a reference to public issue signs. Mr. Lantz said if they would allow public issue signs in the right of way, you would have to allow all non-commercial signs in the right-of-way. Mr. Bruns said they did not want to allow any signs in the public right of way. Mr. Lantz agreed and said he would make that change.

Mr. Lantz said they were going to discuss industrial parks, with one sign and he went over the regulations for Light Industrial zoning and proposed changes. He wanted to discuss square footage. The maximum allowed in current regulations was 32 square feet which would probably not be large enough. Mr. Applegate said there was six hundred acres available for businesses. Mr. Applegate said it was difficult to determine the size of signs until they get more into the formation of the industrial area. He mentioned that they could pick a number like one hundred square feet.

Mrs. Thomas-Roth suggested so many square feet allowed per business. There could be multiple businesses in the park and each one could have different requirements due to the name of the business and they may want a definition of their business.

Mr. Bruns proposed a certain number of square feet per business not to exceed a specific amount. Mr. Applegate said regulations for business are fifty square feet maximum, for thirty-two square feet per sign. This industrial sign would be the name of the company and a brief description of the product. This is different from a business sign. This would be a joint sign with several residents of the industrial park. Mr. Marsh was thinking more of an 'informational, directional sign, rather than an advertising sign. Mr. Bruns said most businesses had a standard logo sign. Mayor O'Callaghan said they could use their sign on their business but not on the Industrial Park sign. That sign would be more like a directory. Mr. Applegate said they had signs governing what was on the building but not the industrial park sign and they had not dealt with that in the earlier regulations.

Mr. Applegate asked if after they determine the square footage size for the signs, if they could have people come in for a variance if they wanted something special or unique. Then they could judge if it was too big or too gaudy, etc. Mr. Lantz said that was possible as long as it was specified in the variance criteria and it would be at the planning commission's discretion, which Mr. Marsh was in favor of.

Mr. Lantz said whatever number the commission settles on, the "public issue" signs in the L-1 would be allowed to have the same size as what was permitted for the business signs. Public Issue means "political signs" so Mr. Applegate suggested that they think about that and he will make some inquiries.

Proceeding through the regulations, Mr. Lantz commented that in regulations governing temporary signs, the only change was in construction signs.

He eliminated special event signs from the code but there was no change in non-conforming signs, and no changes in prohibited signs.

Mrs. Thomas-Roth asked about the inflatable signs and those are not permitted.

Mr. Lantz said “Signs Exempt from Regulation” was highlighted and concerned signs as works of art. If the sign contains a commercial message it is not permitted. He thought it was an unwieldy code and they discussed removing it, using the example of the mural in Englewood, which is exempt because it is a city sign but if it wasn’t, they discussed if it would be permitted, as there is no commercial message so it would be considered as a work of art.

Mr. Lantz discussed several other legal cases that he had seen. Another example was a person having a “doggie day care” and they had a mural of a dog, but the mural also included their hours of operation so it would be considered as a commercial sign. Mr. Lantz asked if they were comfortable with those regulations. He said he was comfortable with what was there but had some concerns. He said they could omit the regulations but then they would not have any regulations concerning people that wanted to put up a mural. Mr. Applegate felt it should be left in. Mr. Lantz gave another example of a mural in St. Louis where the size of the mural exceeded the sign so the permit was denied.

Mr. Applegate commented about plumbing sign information on a panel van where the owner would park it in front of his plumbing business. Mr. Applegate felt that was acceptable because the sign information was on the vehicle.

Mrs. Thomas-Roth asked about painting “Mail Pouch” on barns and they felt that would be considered art also.

Mr. Lantz had a question about regulations on the flags where they may contain a noncommercial message but not a commercial message. He used an example of a Chrysler-Ford dealer logo, and he suggested that they take out the sentence that flags allow the name or identifying symbol of an entity. He suggested removing that.

Mr. Applegate said he did not find that offensive. Mr. Marsh said if it was a recognizable logo, he would not have a problem with it. If it said “Buy Chrysler” then he would have a problem with that and they determined that since that would be a commercial message that would not be allowed.

Mr. Lantz skipped ahead and mentioned the definition of commercial messages, and asked if the Chrysler logo would be an advertisement or commercial message for Chrysler.

Mr. Applegate thought they should look more at that definition. He said he had not seen flags that have been obtrusive. Mr. Lantz asked, should it be regulated or not? He was more comfortable removing it but he was okay if they wanted to leave in the code. He had not seen a legal case involving that.

Mrs. Thomas-Roth asked about size of flags and Mr. Lantz said that was up to them.

Mr. Lantz wanted to discuss Section 1341.065, regarding permits, variances, appeals, and sign removal requirements.

He was concerned about (c) sign permit and (5) about the sign permit being an revocable license and can be withdrawn by the Board of Zoning Appeals at any time. He said that was allowing the Board of Zoning Appeals unbridled discretion and there was no rationale provided. He said he was concerned about allowing anyone to pull the permit.

Mr. Applegate agreed and thought it should be deleted as Mr. Lantz suggested. The commission did not have a problem with the elimination of that paragraph.

The next point discussed was part of the code with a fee of one hundred dollars that can be imposed or an administrative fee for inspection and administrative costs. He suggested removing that section.

Mr. Lantz said that earlier, Mr. Bruns had brought up the subject of right-of-way and that the regulations needed more specificity.

It refers to another section and they do not want real estate signs in the right of way, they would want to allow traffic control signs, state and federal agencies, city or county, court ordered, etc. He said he would make that change on what would be permitted.

Mr. Marsh and Mr. Applegate asked for a definition of “name plate”. Mr. Lantz explained that a nameplate was listed in the definitions and was a permanent fixed-copy on the premises sign, with the name and address and profession. They would not want nameplates in the right of way, just anything that the city needs to put there and no other signs. Mr. Lantz said if political signs were permitted in the right of way, all non commercial signs would need to be allowed.

In the definitions, under Joint Identification Signs, he recommended the removal of that section.

On special event signs, they had stricken that earlier because of some church group advertisements that would be off premises. He said usually these signs have to be from charitable, nonprofit organizations and he added that they would need to be a resident or have a documented presence in the City of Union.

Mr. Bruns asked about a special event from a business and if they could have a sign for a special event – like a temporary sign on a tire sale, etc. There was further discussion on the details of temporary signs. Mr. Bruns would like it limited to maybe one time a quarter.

Mr. Applegate asked Mr. Lantz to check and see if there was anything that would restrict the time limit they would be permitted. He asked what sort of limitation would they like.

Mr. Bruns suggested 30 days and Mr. Applegate suggested so many events per year. Mr. Bruns suggested 30 days every 90 days. Mr. Applegate said there were school and other organizations that do it. Mr. Bruns said sometimes they put up banners and sometimes they use the permanent sign for the event.

Mr. Lantz said they cannot use banners but they can use portable signs or a folding portable signs. Mr. Applegate asked Mr. Lantz to see if there was anything out there concerning the time the sign would be allowed up. Mr. Applegate said usually the sign went up and then went down after the event was over.

Mr. Applegate said when the sign goes up and comes down, no one cares. It is when the sign does not come down that could be a problem.

Mr. Applegate suggested that they discuss this at the next meeting in November and that Mr. Lantz would have some more information.

The next meeting would be on November 6 but they may call a special meeting to avoid that. Mr. Applegate said they would check into that further.

Mr. Lantz said he would be available at their convenience.

3. Open Agenda

There was nothing for the open agenda.

4. Mr. Marsh moved that the planning commission meeting be adjourned. Mr. Bruns seconded the motion. All concurred and the meeting was adjourned.