

PLANNING AND ZONING BOARD MINUTES FOR MEETING HELD TUESDAY 16 AUGUST 2022, 7:00 PM

The meeting of the Planning and Zoning Board came to order at 7:00p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: N. Austin, J. Castignoli, E. Hirsch, J. Kader, B. Kaligian, C.S. Moore, J. Mortimer, J. Quish, R. Satti, M. Zahariades

Not Present:

Staff: D. Sulkis, City Planner; M. Greene, Rec. Sec'y

C. NEW BUSINESS--None

D. PUBLIC HEARINGS

CLOSE BY SEPTEMBER 6, 2022; VOTE BY NOVEMBER 9, 2022

- 1) **Proposed Regulation Change #22-6** Petition of Kevin Curseaden, Esq. for a change to Articles V and XI, Sections 5.2.1, 5.2.5, 5.3.6.A, 5.3.6.B to allow modernization of existing conforming and legal non-conforming billboards abutting the I-95 corridor, and conversion to Electronic Digital Billboard signs. (Continued from 8/2/2022)

Chairman Quish asked Mr. Sulkis for a recap, which he provided. **Mr. Sulkis** said the hearing had been closed at the last meeting, but the board held off a vote, so staff could craft a detailed proposed motion that captured conditions of approval that were discussed. Mr. Sulkis drew attention to where changes had been made in the text. He noted the removal of the CDD-1 zone from the language with the revised zones limited to LI and ID.

Mr. Castignoli and **Mr. Hirsch** confirmed with Mr. Sulkis that the billboard with proximity to Gloria Commons had been eliminated and the number of signs was now limited to 5. **Chairman Quish** asked what the process would be now to have a billboard approved. **Mr. Sulkis** said the original text allowed the applicant to get an over-the-counter zoning permit rather than having to apply for a Special Permit. He directed attention to a checklist of 14 conditions that had to be met. **Mr. Hirsch** asked whether more billboards could proliferate under the new regulation. **Mr. Sulkis** said the regulation itself limits the billboards to be changed unless a new zone change were approved. He described details of the regulation, pointing out that Section 5.3.6 (A) specifies such installation requirements as the direction, angle, and location of the billboards. **Ms. Austin** noted that the standard used was fact-based rather than subjective. **Mr. Moore** asked about the quantity of billboards that might be phased-in at one time; **Mr. Sulkis** said that once the change was approved, then one or all could be submitted under a Special Permit with Site Plan Review. **Mr. Satti** referred to 3/5/22 document that did not include language regarding Special Permits; discussion ensued regarding how the requirement for a Special Permit came to be included and other instances in the regulations on Special Permits where the word "may" rather than "shall" is used.

Chairman Quish asked for a motion.

Mr. Mortimer moved to approve with the following modifications the Petition of Kevin Curseaden, Esq., for a change to Sections 5.2.1, 5.2.5, 5.3.6.A, 5.3.6.B, and 11.2 to allow modernization of existing conforming and legal non-conforming billboards abutting the I-95 corridor, and conversion to Electronic Digital Billboard signs. **Effective Date: 9/5/22**

Proposed Modifications:

Section 5.2.5, subsection 1, shall be modified to read:

Illumination produced by an Electronic Digital Billboard Sign with a face size not to exceed 14' x 48' shall not exceed 0.3 foot-candles of illumination over ambient light levels as measured by a foot-candle meter from 250 feet perpendicular to the sign face as certified by a professional engineer or alternatively measured as prescribed by the April 2017 Outdoor Advertising Association of America "Explanation of OAAA Recommended Brightness Guidelines, Appendix."

Proposed subsection 2 and 3 is removed.

Section 5.3.6 (A) shall be modified to read:

5.3.6(A) – Electronic Digital Billboard Signs in LI and ID Zoning Districts:

Subject to all other provisions and limitations of these Regulations, the Board may allow through Special Permit and site plan approval subject to Section 7.1.2.1 through Section 7.1.2.14, Electronic Digital Billboard Signs in LI and ID zoning districts, subject to the following additional conditions and safeguards, Electronic Digital Billboards shall:

2. *Be erected as a ground sign and located on real property in the LI and ID Zoning Districts, which abuts the non-access highway line of the I-95 road system or an access ramp or Right of Way with respect thereto (hereinafter collectively the "I-95 Corridor").*

Section 7.1.2.14 shall be modified to read:

7.1.2.14, Electronic Digital Billboard Signs in LI and ID zoning districts, subject to the following additional conditions and safeguards, Electronic Digital Billboards shall:

- 2. Be erected as a ground sign and located on real property in the LI and ID Zoning Districts, which abuts the non-access highway line of the I-95 road system or an access ramp or Right of Way with respect thereto (hereinafter collectively the "I-95 Corridor").**

Section 11.2 other terms shall be modified to read:

- 3. Must automatically adjust the brightness to not exceed 0.3 foot-candles above ambient light conditions measured at 250' or must meet the foot-candle level prescribed for alternatively measured distance, as prescribed in Section 5.2.5.**
- 6. Light produced by an Electronic Digital Billboard Sign with a face size of 14' x 48' shall not exceed 0.3 foot-candles over ambient light levels measured at 250' or must meet the foot-candle level prescribed for alternatively measured distance, as prescribed in Section 5.2.5.**

All other language as proposed by the applicant remains the same.

Second: Ms. Austin seconded.

Discussion: Mr. Castignoli said he still objected to the regulation change on safety grounds. Mr. Satti confirmed with Mr. Sulkis that Mr. Sulkis' administrative summary was still reliable; Mr. Sulkis said he could continue to answer any new questions. Mr. Satti thanked Attorney Curseaden for the work done on the project, but said he also could not support the proposal due to safety concerns and the expressed objections of the citizenry. He said he was also concerned about setting a precedent. Mr. Mortimer said he appreciated the exclusion of the site located nears Gloria Commons, but felt the proposal was essentially unchanged and he still could not support it. Chairman Quish said he thought the revised motion gives the board sufficient discretion and that he would support it. Mr. Hirsch said he thought cell phones were more distracting but was also concerned that a precedent would be set. Mr. Moore agreed with Chairman Quish. He said he didn't think there was a valid safety issue, noting that in places with extreme light displays like Las Vegas, people are still capable of driving. Ms. Austin said she agreed with Mr. Moore and Chairman Quish. She said she understood the concerns expressed but felt that limiting the number of billboards subject to the regulation would sufficiently protect the city. She said that she works in advertising and finds static billboards more distracting. Mr. Castignoli said he didn't dispute that there are other distractions, but that electronic billboards unnecessarily add another. Ms. Austin and Mr. Sulkis discussed whether the regulation change set a precedent. Mr. Sulkis advised that new proposed regulation changes must come before the board and the board has the discretion to approve them or not.

Vote: The motion failed with a vote as follows:

WITH THE MOTION: N. Austin, B. Kaligian, C.S. Moore, J. Quish

AGAINST THE MOTION: J. Castignoli, E. Hirsch, J. Kader, J. Mortimer, R. Satti, M. Zahariades

E. OLD BUSINESS—None.

F. LIAISON REPORTS—None.

G. SUBCOMMITTEE REPORTS—A Regulation Subcommittee meeting is scheduled for Wednesday, 8/24, with a Plan of Conservation and Development (POCD) meeting to follow.

H. APPROVAL OF MINUTES—8/2/2022 was unanimously.

I. CHAIR'S REPORT—A new motion to return to Zoom meetings was defeated. Chairman Quish said that absent some major change in public health due to the pandemic, he would stop conducting votes on the topic.

J. STAFF REPORT—Mr. Castignoli asked about activities being conducted by the POCD consultant. Mr. Sulkis said the current POCD is being updated and the work involved the city's GIS staffer. Chairman Quish asked for a staff update on POCD at the next meeting. Mr. Satti asked about POCD community education plans. Q asked for agenda. Mr. Castignoli confirmed with Mr. Sulkis that the Board of Alders would vote on the Accessory Dwelling Unit opt-out. Mr. Mortimer confirmed that subcommittee meetings continue via Zoom. Mr. Kader, Ms. Austin, and Mr. Sulkis discussed how often the same proposals could be brought to the board.

K. ADJOURNMENT was at 7:37

Attest: M.E. Greene

New Business, not on the Agenda, may be brought up by a 2/3's vote of those Members present and voting.

ANY INDIVIDUAL WITH A DISABILITY WHO NEEDS SPECIAL ASSISTANCE TO PARTICIPATE IN THE MEETING SHOULD CONTACT THE DIRECTOR OF COMMUNITY DEVELOPMENT, (203) 783-3230, FIVE DAYS PRIOR TO THE MEETING, IF POSSIBLE.