

**NORTH RIDGEVILLE PLANNING COMMISSION
MINUTES OF REGULAR MEETING
TUESDAY, MAY 9, 2023**

CALL TO ORDER:

Chairman Smolik called the Planning Commission meeting to order with the Pledge of Allegiance at 7:00 PM.

ROLL CALL:

Present were members Paul Graupmann, Steve Ali, Council Liaison Bruce Abens, Vice Chairwoman Jennifer Swallow and Chairman James Smolik.

Also present were Chief Building Official Guy Fursdon, Assistant Law Director Morgan, City Engineer Christina Eavenson, Planning and Development Director Kimberly Lieber and Deputy Clerk of Council Tina Wieber.

MINUTES:

Chairman Smolik asked if the members had a chance to review the minutes of the regular meeting on April 11, 2023. He asked if there were any corrections. Hearing no corrections, the minutes were approved.

CORRESPONDENCE:

Administrative Approvals & Zoning Certificates

1. PPZ2023-0180: 3rd Generation Construction, LLC, 36591 Center Ridge Rd, Suite 104

Approval of a Certificate of Zoning Compliance for office for general contractor/construction firm.

Director Lieber stated that in the last month the City approved a Zoning Certificate of an office for a contractor and construction firm, 3rd Generation Construction.

Master Plan Update

Chairman Smolik stated that the Master Plan Steering Committee meet and went over a summary of the public outreach that was done. He mentioned that there would be a meeting the following month and that if anyone had an opportunity to attend one of the meetings, that it was very beneficial and allowed the Administration to hear what the community's thoughts were regarding the Master Plan.

NEW BUSINESS:

PPZ2023-0178: North Ridge Pointe Subdivision Phase 8, West Shore Parkway, PPN 07-00-030-000-310

Proposal consists of constructing 31 single family lots for Phase 8 of North Ridge Point Subdivision. Property zoned R-1 Residence District.

Application was read.

Chairman Smolik asked the applicant to state his name and address for the record and explain the proposed project.

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Gary Smitek 36715 Avalon Court, Avon, OH 44011.

Mr. Smitek stated that they were finishing West Shore Parkway, which would connect and go all the way to Stoney Ridge Road and Route 83. He explained that West Shore Parkway didn't run all the way through but there was a little road that connected to it that ran to Stoney Ridge Road and that it would be all the way through. He stated that currently there was a gap of 31 lots and that it was all part of the original plan, with some tweaking of a foot here and a foot there.

Chairman Smolik asked if there were questions or comments from the Commission.

None were given.

Chairman Smolik asked there were any questions or comments from the Administration.

None were given.

Chairman Smolik asked if there were any questions or comments from the general public.

None were given.

Moved by Swallow and seconded by Graupmann to approve the application as presented.

A roll call vote was taken and the motion carried.

Yes – 5 No – 0

PPZ2023-0185: St. Peter Catholic Church, 6920 Root Rd, PPN 07-00-021-118-009

Proposal consists of constructing 2,300 square foot grounds maintenance building for St. Peter Church campus. Property zoned R-1 Residence District.

Application was read.

Chairman Smolik asked the applicant to state his name and address for the record and explain the proposed project.

Pat Hyland, Perspectus Architecture, 1300 E. 9th Street, Suite 910, Cleveland, OH 44114.

Mr. Hyland explained that they were proposing and designing a maintenance building for the St. Peter Parish campus. He stated that the location of the building would be to the east side of the campus towards Root Road. He mentioned that the shaded areas on the plans were the approximate area of shifting or regrading on the site. He stated that the building was 2,500 square feet and 163.5 feet off of the right-of-way of Root Road. He added that it was 22 feet and a few inches to the south of the property line and would be 22 feet 8 inches from the existing asphalt driveway to the south edge of the building. He explained that there would be four bays with the asphalt drive coming off of the drive into the bays. He stated that to the west of the building would be four parking spaces and an asphalt parking lot just for the staff that worked there. He discussed that they would be connecting a storm line to the storm drain and the electrical would be underground from the street. He stated that they would tie water and

sanitary to the street out along Root Road. He explained that on the floor plan it showed four bays. He discussed that currently on the campus there was a 100-year-old barn right at the front of the campus by the gym that they had been using as storage. He stated that the trucks were too long and the garage doors couldn't come down so they were going to alleviate that problem with four bays for storage of the equipment such as backhoes, miscellaneous storage and trucks that they had. He stated that they would have one staff toilet and then storage spaces for lawn mowers and other lawn equipment and some other general storage. He mentioned that it would be a brick on block building and the high parapet was about 17 feet 4 inches tall and the lower volume would be about 13 feet 4 inches tall. He stated that the garage doors for the bays would be brown or bronze-like flat panel garage doors and that there would be glass block windows to let in natural light. He explained that there would be light fixtures on the building but that they would be oriented down so that there wouldn't be any light pollution going up.

Chairman Smolik asked if there would be any salt bins or anything like that for snow plowing.

Mr. Hyland stated that they would have bags on pallets delivered and that would be one of the items that would go into one of the bays.

Chairman Smolik asked if it would be a hopper or anything like that.

Mr. Hyland said no.

Chairman Smolik asked if the parking lot had lighting or just the building itself.

Mr. Hyland explained that they had just put lighting on the building itself to throw light but they didn't have any in that four space parking lot.

Chairman Smolik commented that it appeared that there wasn't any retention even though the whole parcel was bigger than the one acre.

City Engineer Eavenson stated that they had discussed it and she believed they noted that if it was 15,000 square feet of disturbance or less that there wasn't any requirement for storm water management. She asked Mr. Hyland if he could note that on his plans as well as their area of disturbance. She mentioned that she thought he was going to double check.

Mr. Hyland stated that the building footprint was 2,500 and in looking at the disturbance area, it was less than 15,000 square feet.

Chairman Smolik stated that it met code then.

City Engineer Eavenson remarked that was correct.

Council Liaison Abens asked if they would be using it for maintenance of the vehicles.

Mr. Hyland stated that they would not and they would be changing the name to be called the parish grounds building. He explained that there wouldn't be heavy maintenance or changing oils or anything like that.

Council Liaison Abens asked if the door on the storage facility should be swinging out.

Mr. Hyland stated that he realized that after it was submitted.

Chairman Smolik asked if there would be any landscaping buffering the front of the building for the backyards of the residents.

Mr. Hyland asked him if he meant towards Root Road.

Chairman Smolik stated that was correct. He commented that it would be directly behind the residential area.

Mr. Hyland stated that he was sure that the parish would be happy to do that. He mentioned that the east facade would have an elevation and would have blind windows to make it look less like a support building. He stated that if the City desired them to landscape around, that he was sure Father Franco would be happy to. He explained that they tried to push it as far back as they could. He added that it was at the high point of the site because they were concerned about the 100 year flood plain and they were just trying to get it off of Root Road as far as they could, so that it didn't mess with the residential streetscape along there. He stated that they could keep adding landscaping.

Chairman Smolik asked if any of the Commission members had any questions or comments.

Council Liaison Abens asked if they had done an OOPS survey yet.

Mr. Hyland stated that a site survey had been done and they found everything that they had found and then the church gave them additional information because there was a house there prior to the demolition and there were some existing utilities that they were going to try to tap into to save some money.

Director Lieber asked that if the Commission was inclined to add landscaping as a condition of approval that she recommended that they included it in their motion and then she would be happy to do an Administrative review of that landscaping addition as part of their staff process.

Mr. Hyland asked what kind of landscaping the Commission was looking for and if they were looking for them to screen.

Chairman Smolik stated that his thought was to screen with maybe three or four pine trees to break up that wall.

Mr. Hyland commented that he just wanted to understand and didn't just plant flowers there.

Chairman Smolik added that the Administration could handle that if that was what the Commission deemed okay.

Chairman Smolik asked if there were any questions or comments from the general public.

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Dennis Boose, 6405 Denise Drive, North Ridgeville, OH 44039.

Mr. Boose stated that as a resident he was very much in favor of the project. He discussed that St. Peter's Church would be 150 years old in a couple of years and that it was good to see that they were reinvesting in the campus. He commented that the storage for the equipment and the vehicles was desperately needed and thought that the plan was a good one. He stated that it was a nice building and not just a pole barn and would fit well within the neighborhood. He added that he recommended approval.

Chairman Smolik asked if there were any questions or comments from the Commission.

None were given.

Moved by Swallow and seconded by Ali to approve the application with the condition that landscaping be provided to the east facade subject to Administrative approval.

A roll call vote was taken and the motion carried.

Yes – 5 No – 0

PPZ2023-0186: Worcester Service & Sales, 34200 Lorain Rd, PPN 07-00-014-104-029

Proposal consists of constructing a 1,786 square foot addition onto existing building. Property zoned B-3 Highway Commercial District.

Application was read.

Alan Worcester, 8421 Root Road, North Ridgeville, OH 44039.

Mr. Worcester explained that the project would be an expansion of their power equipment showroom. He stated that they would be demolishing the current glass portion of the showroom and building the addition as a replacement. He mentioned that it would increase the showroom space by 120% of what they had currently. He added that they tried to style the color scheme to match the recent front remodeling they had done.

Chairman Smolik asked if there were any questions or comments from the Commission.

None were given.

Chairman Smolik asked if there were any questions or comments from the Administration.

None were given.

Chairman Smolik asked if there were any questions or comments from the public.

Dennis Boose, 6405 Denise Drive, North Ridgeville, OH 44039.

Mr. Boose stated that the business was another well established business in the community that was looking to reinvest in it. He mentioned that they had a good plan and that aesthetically it would look great. He commented that it was great to see that business expansion was something that they wanted to

do in the City and he recommended approval.

Chairman Smolik asked if there were any other questions or comments from the Commission.

None were given.

Moved by Graupman and seconded by Ali to approve the application as presented.

A roll call vote was taken and the motion carried.

Yes – 5 No – 0

Sign Code Update

Proposed ordinance amending Chapter 1286 Signs

Director Lieber stated that at City Council's last meeting Council passed a piece of legislation placing a moratorium on pole signs, off-premise advertising signs and freeway-oriented signs, in anticipation of the code update moving through the Planning Commission and Council process with the understanding that the potential update would eliminate those signs as approved sign types. She explained that the moratorium was in place so that new projects wouldn't be coming before the Commission that would then potentially become a not approved sign type. She stated that the Commission had had three previous work sessions with one being a discovery session talking about the issues and then a series of work sessions to talk about the actual code updates. She discussed that they had made it all the way through the code over the last two meetings. She added that at the last meeting they had focused a lot on the temporary sign section. She stated that she then went back and made some of the changes requested by the Commission and put together an exhibit that had been requested about digital sign face, but that they were approximate calculations for the static and changeable portions so that they could get an idea of different sign percentages of changeable versus static. She stated that since it was an agenda item of new business it would give the Commission the opportunity to potentially make a recommendation on the legislation to Council. She explained that that would be the final act of the Commission to advance the sign code into the legislative format for Council to consider through their committees and their legislative process. She added that if the Commission were comfortable with that then they would act on it and if they weren't comfortable and wanted continued changes or discussion the Commission could just table it and then it would appear at the next meeting as old business. She explained that it wasn't a work session at that point. She commented that they could still work on it but it was an actual piece of business and a vote could be possible. She added that she wanted to run through a few of the changes she made after the last meeting. She stated that the version before them was dated May 1, and that there had been a recommendation to clarify the exhibit on page 8 and that there was language proceeding that on page 7 where it talked about how to interpret that graphic. She remarked that at letter "G" number 1 on page 7, the last sentence stated, "See A and B in Figure A below" to try to give some context about when that exhibit would be put in use. She stated that they had already made some changes in the permanent sign section and discussed them at the last meeting. She mentioned that regarding the temporary sign section on page 16, that she had also changed letter "C". She discussed that it was recommended that they consider a banner sign as a permitted sign type of temporary signs with non-commercial messages. She explained that it was made because there had been uses of banners for different types of non-commercial message signs and that the code did define that if a banner were attached to a piece of plywood and stuck in the ground, it would be treated as a yard sign but that she could imagine there being circumstances where people would affix a banner to a dwelling or to the

exterior of a business and that would allow a banner to be an additional sign type. She discussed that originally it was written to be yard and window. She added that it provided a bit more flexibility and was a recommendation that was made in an internal meeting and wanted them to be aware of that specifically because it added the ability for that sign type to be used. She stated that there was a lot of discussion at the last meeting regarding temporary signs and regarding political signs and time frames of signs and that they had had an internal staff meeting to discuss that issue about timelines. She stated that her recommendation remained that setting timelines on temporary signs became difficult from an enforcement standpoint and that slicing out any subsets of non-commercial message signs to apply a timeline to, then became very much contrary to established case law about content neutrality. She stated that her professional recommendation was not to include times attached to non-commercial message signs. She remarked that she felt it was an unresolved issue and she wanted to bring that up with the Commission and offer them the opportunity to more fully discuss that or ask questions about that because she knew it would be a potentially sensitive topic with the community.

Chairman Smolik asked if the Commission had any questions regarding banner signs and if they were okay with it.

Council Liaison Abens stated that he was still of the opinion that they needed to put a time restriction on temporary signs or else they would see some temporary signs up forever. He commented that a temporary sign was exactly that, it was supposed to be temporary. He mentioned that as far as enforcement was concerned, that it was one of those kinds of things where the City had a number of ordinances on the books where they were more or less complaint driven rather than enforcement driven. He stated that he believed there needed to be some type of time limit on temporary signs, whether it be 45 days or 30 days or 90 days, but some type of a time restriction.

Chairman Smolik asked if there was any further discussion on temporary signs with a non-commercial message as far as a time duration.

Assistant Law Director Morgan stated that when they had their Administrative meeting there were a lot of people who were in favor of a time restriction because temporary signs weren't very attractive. She commented that especially in the political season, there would be so many of them but from a practical standpoint, it would become impossible to enforce. She mentioned that if they went with complaints only, all the complaints would be about political signs and then they would end up in that quagmire with First Amendment issues. She explained that they had tried a time limit in the past of 30 days up and then it had to be out for 30 days but another sign which looked almost the same but wasn't the same, could go up immediately and it was really almost impossible to enforce. She commented that it was a great idea and that everyone liked the idea but the enforcement of it, especially in the context of political signs, was very difficult and tricky.

Vice-Chairwoman Swallow stated that she thought it was probably best to leave the time limits. She mentioned that she didn't disagree with the idea and what was trying to be done with that suggestion but she felt that it was a slippery slope and probably not a battle that they would want to put the City in the position of taking on.

Chairman Smolik asked if there were any further questions or comments.

None were given.

Chairman Smolik opened the floor to the general public.

Dennis Boose, 6405 Denise Drive, North Ridgeville, OH 44039.

Mr. Boose stated that he echoed Mr. Abens comments that a temporary sign should be a temporary sign. He commented that if they were saying they couldn't enforce it, temporary signs would become permanent signs and why have it in the legislation. He discussed that years ago, even for political signs, they had a permit that was free but at least the City knew that there were signs out in people's lawns. He stated that perhaps they institute a free permit for anyone who wanted a temporary sign and that way they would know when it started and what type of sign it was because it would be on the permit and then they would have a better opportunity to enforce those that want to go beyond the time restriction. He stated that he understood the slippery slope and that they couldn't carve out political signs from the other temporary non-commercial signs. He mentioned that if they had a time limit for temporary non-commercial signs that might solve part of that issue. He added that regarding the free permit, they weren't talking about hundreds of people that would have temporary signs in their yards. He stated that he didn't think that would be an unimaginable thing to happen and would provide a better value of life for people driving around town not seeing all the signs forever.

Director Lieber stated that she had legal concerns and some practical application concerns. She stated that on the legal side, applying a time limit to free speech protected signs while other types of temporary signs didn't have a time limit would become problematic. She stated that if a house was for sale and that sign was unlimited because it was a commercial message and they allowed a certain amount of commercial speech without restriction but then they had to take down their religious or political or ideological sign after 30 days, beyond just the non-commercial versus commercial distinction, they would have to consider a time limit for any type of temporary sign so that they were not placing greater restriction on protected speech over less protected speech. She stated that they could imagine the secondary effect of trying to regulate the times of all temporary signs. She mentioned that as a complaint driven system, she was concerned that that rule seemed like it was neutral but in practice would become a target for political speech people didn't like because if people weren't complaining about the graduating senior sign in the yard or some other type of religious message sign and complaints were only coming in about one type and the only enforcement was being performed around that one type of speech, she had a concern about that. She remarked that practically speaking she was trying to figure out how many signs went out for just the school levy but thought it was 1,500 signs. She added that school levies or any type of levy that people would have to get a no fee permit for those. She mentioned how the schools or other organizations putting up those issues would feel about having anyone who supported their candidate or their issue, having to go through a hoop in order to get a permit to install. She stated that she thought it would be difficult to issue as many permits as there were non-commercial speech or commercial speech temporary signs that they saw in the City. She commented that the Building Department issued a lot of permits for a lot of activities but that would be challenging. She stated that if it was complaint based and if they saw one that didn't have a sticker, the building department couldn't remove a sign that was improperly placed from private property. She explained that they would have to go through the steps afforded them by law to issue a citation and then come back to see if it was addressed and then if not, send them to court. She mentioned that the City didn't allow trespassing or stealing and those were right afforded to property owners. She discussed that complaint-based tracking, understanding when the sign was installed, how long it had already been there, if it was a duplicate sign but a different sign, that there would be a lot of practical challenges with that that would make it unworkable at the staff level.

Mr. Boose stated that just for clarification regarding what was just discussed, as far as the permit, in the

past when the City used to have it, he as the political candidate, got the permit and the hundred people that had his signs in their yards didn't need one because he had one. He stated it would be the same with the school board. He commented that the school would get a permit for their sign for "X" number of days and anyone in the City that had their sign in their yard would not need a permit, just the school or just the organization doing the sign. He stated that they wouldn't have 1,500 permits coming to the Building Department, they would only have one for that particular sign. He remarked that he understood where they were coming from on the other issues but he just wanted to clarify that he was not suggesting that the Building Department handle 1,500 yard signs for a school levy.

Chairman Smolik stated that he agreed that they couldn't segregate if they were going to have some type of duration and that it would have to be for all temporary signs. He mentioned that he thought they needed something on the books just in case there was something out there that they weren't thinking of that would need some type of enforcement action. He asked the Assistant Law Director if the City would have a legal stand for a temporary sign to be removed if they didn't indicate a duration.

Assistant Law Director Morgan she stated that she thought in the proposed updated Sign code that there was something in there regarding number of signs in the yard or square footage of signs and there was a limitation on that.

Vice-Chairwoman Swallow asked about band kids, and gave the example that when they're seniors they would come and put a senior sign or a band sign in their yard. She stated that it would fit the description and would most likely meet the square footage in the updated code but then the child goes to college and if they want to leave that up for the next four years they could. She asked the Chairman if that was what he was getting at because it wasn't necessarily a political sign.

Chairman Smolik stated that was correct.

Vice-Chairwoman Swallow asked how long could they have that sign in their yard.

Assistant Law Director Morgan commented that there were some things that the State just couldn't fix.

Director Lieber stated that there wasn't any deadline but that there was the quality of the sign and if it degraded to the point where it became unsightly due to deterioration or safety concerns, like it wouldn't be affixed to the ground anymore or falling over, then they could be required to be removed or replaced. She mentioned that the only time limited signs in the temporary section were on the commercial speech side and that had to do with special events and for new uses. She stated that those would require a permit and that was how they could track that.

Chairman Smolik stated that he was thinking six months because that way something was on the books and as indicated previously, it would be more complaint based as opposed to the City policing them.

Vice-Chairwoman Swallow stated that she was aware of communities that had time limits and just simply don't enforce it against political signs.

Council Liaison Abens commented that the reason for the time limit was because they would have signs out there whether they were political or commercial placed all over the place and there was a good possibility that they would stay there forever until someone stole them. He stated that that was why they needed to put a time limit on all temporary signs. He added that the definition of temporary was that

there was a time limit and they should be defining what that time limit was for a temporary sign. He discussed that if they didn't define time limit then they really couldn't call them temporary signs. He added that temporary to one individual may be different than temporary to another. He mentioned that it was one way to take care of signs that were objectionable to the community because they could only be up for a limited amount of time. He stated that it would allow the City to remove them and not base it on Freedom of Speech but because it was a temporary sign and that was what the City's definition of temporary was.

Vice-Chairwoman Swallow stated that going by Mr. Abens description, she could see what Assistant Law Director Morgan was saying regarding when it was complaint driven like, "I don't like the speech on your sign because it had a vulgar word", so they call and complain about that one but they leave up someone else's religious message and not complain about that one. She stated that then it would become an enforcement issue.

Council Liaison Abens commented that it also meant that someone would have to complain about that other sign and since it would be complaint driven, it would be driven by the community. He stated that in other words, community standards, which his understanding was that the court recognized community standards and enforced those community standards.

Assistant Law Director Morgan stated that one of the reasons that free speech was so important to the courts was that voices that don't have a majority needed to be heard just as well. She added that it wasn't just strictly community standards but that there was a much more subtle balancing act that went on. Unpopular speech is supposed to be protected as well and when they had a complaint driven system, the majority always won in that situation. She remarked that that was one of the reasons that they wanted to protect free speech in general. She stated that when they had their meeting, they had similar discussion. She discussed that they went through each section and then when they got to that section, people had very strong feelings, and rightly so. She stated that if they wanted to, they could recommend it to Council, they could recommend things that they would like to see or they could table it and at the next meeting come back with a well-rounded example of what they would like to see or maybe look at other communities or that sort of thing. She commented that they had to make a decision and it was a very touchy issue. She stated that putting a time limit was tricky and people were very smart and they would figure clever ways to get around it all.

Council Liaison Abens remarked that he understood that. He stated that he had been in charge in the past of federal regulations and came up with some creative definitions that he was able to get the city he worked for at the time out of some trouble. He added that the federal representative commended his interpretation. He stated that he understood that they would find people who would be looking for loopholes but he didn't know of any laws or ordinances like that that weren't subject to loopholes. He added that any law or ordinance was only as good as the population's willingness to observe them.

Assistant Law Director Morgan asked what kind of a recommendation were they hearing from the Commission and the audience.

Council Liaison Abens stated that if it was a temporary sign that they needed to affix a timeline to it. He mentioned that if they didn't want to affix a timeline to it then it shouldn't be called a temporary sign. He added that even the State in some of the building codes had timelines. He stated that one he was familiar with was temporary buildings and that they had 90 days with a 90-day extension. He commented that he knew there were quite a few temporary buildings out there that had been there for years but no one has

complained.

Assistant Law Director Morgan stated that the fact that nobody has complained was not a legal standard.

Council Liaison Abens stated that he understood but he was just saying that most citizens would observe the rules and the few that didn't would have to be dealt with on a case-by-case point.

Assistant Law Director Morgan stated that another practical consideration would be that even if there was a timeline and there was a complaint and someone went to investigate, which was difficult as well because of the City being short staffed, then there would be a notice of violation and then there would be a time to comply. She stated that in a practical sense, by the time it made it to court and be heard, a lot of time would have passed, well beyond any kind of time limit they might want to set.

Council Liaison Abens stated that in the past they had a 30-day limit on political signs and asked how many times the City had to issue citations or had gone to court.

Assistant Law Director Morgan stated that she hadn't.

Chief Building Official Fursdon stated that the enforcement was very difficult and that the standard had been hands off on political signs unless they were on City property, in the right-of-way or obstructed the view of pedestrian and motor vehicle traffic.

Council Liaison Abens commented that the City hadn't really had any problems in the past.

Chief Building Official Fursdon stated that that was correct. He commented that he wasn't saying they hadn't had problems but from a complaint standpoint, that was the only enforcement aspect that they were instructed to take.

Assistant Law Director Morgan stated that they still could keep them out of the right-of-way, anywhere they would be dangerous or obstruct views and off of utility poles. She remarked that those still applied.

Member Ali stated that he thought they should put a 30 or 60-day time limit on it. He added that if they got a call, most people would abide by it. He remarked that he wasn't saying that they should arrest anyone or give them a citation but that most people were law-abiding citizens and in the event that they weren't, there were other avenues. He added that he thought they needed to put a time limit on the signs.

Director Lieber stated that one consideration regarding the time limit, if there was a time limit, and it was a generous six months, and a complaint was lodged by a neighbor that they were tired of looking at a sign and they stated that it had been out there a year, that the Building Department could only document the condition that they observed at the time they went out and inspect. She mentioned that they couldn't go back in time and observe that that sign was indeed in place for every day of the last six months or year. She explained that the time clock would start running then and now they would have to go back out. She asked how long would they get at that point. She asked if it would be the full six months of that sign and then a citation would be issued. She stated that the Building Department couldn't just take a complaint from a resident or a business owner and assume the validity of that complaint without having witnessed that complaint themselves or having documented that condition. She asked, what if a property owner puts up a sign for a month and took it down for a month and put it back up for a month. She stated that there were so many ways around a time limit and when thinking about that, it would become very

difficult to enforce. She asked what was it to have a time limit at that point. She added that in the code a temporary sign meant a sign that would be neither permanently anchored to the ground nor permanently affixed to a structure nor mounted on a chassis and or was intended for a limited period of display. She added that she understood that it didn't state what the limited period was but that it was something less than forever because it wouldn't be permanently affixed to something and could be picked up or moved or easily taken out of a window or a banner taken off of a wall. She stated that she would encourage members to drive around town and see the volume of temporary signs that they were discussing. She mentioned that they were for everything from for sale to hiring, special of the day and every temporary sign. She asked if they could imagine the effort it would take to police that and that she had concerns that complaint-based enforcing could become a way of picking on speech we don't like versus the speech we don't have a problem with. She mentioned that one of the goals of the project to update was to ensure that they were on the right side of the constitutional questions. She explained that she could sense that they may be getting into some deep water with that or placing a burden that the Building Department couldn't meet with the time frames.

Chairman Smolik stated that he thought there were avenues that they could use to track the timelines. He mentioned that there was Google Maps with the street view, which was done yearly. He commented that it was slippery slope not having some type of duration in there because as indicated, the City had all those temporary signs. He stated that one of the responsibilities of Planning Commission was to make sure they were helping the community by making sure property values increased and that if they didn't get temporary signs under control, it could be a big nuisance for the community. He explained that they wanted to make sure that while they were going through the whole entire code, that they had every avenue in there for enforcement. He stated that regarding the loophole, maybe they needed to sit and think about it some more. He discussed that he was hearing both sides from the Commission members that some wanted a duration and some didn't. He remarked that he understood the Administration's point of view and also, they were hearing from the general public as well. He asked if there were any further questions or comments on the duration of temporary signs because he thought maybe they wanted to move on to changeable copy to try and get through that section.

Council Liaison Abens stated that as far as enforcement was concerned, they were usually talking about very few people that would give the City a problem. He added that he thought it was something that the City could handle through different avenues. He mentioned that he understood that the Building Department was short handed and had all kinds of other issues, but he didn't think people disobeying would be a major issue. He stated that if they gave them the guidelines up front, 99% would say okay fine and the few that they would have to remind that it had been 15 days past or whatever is decided as temporary, by knocking on their door or sending them a note, more than likely they would lift it. He stated that they may put it right back out the following month and discussed that he had someone on Root Road that did that. He added that throughout the City it was maybe five people total. He stated that he had another person on Chestnut Ridge that had temporary signs out for years but he finally took them down.

Assistant Law Director Morgan stated that the Commission should go through the rest of code and could come back to that issue. She mentioned that they were looking for a recommendation from the Planning Commission and the Commission should make a recommendation.

Chairman Smolik stated that he agreed.

Vice-Chairwoman Swallow asked regarding temporary signs with non-commercial message and

commercial messages, were they allowed to make that distinction.

Assistant Law Director Morgan explained that the courts gave cities more leverage with commercial speech because it was not as protected as political speech or issue speech or ideological speech.

Chairman Smolik stated that the next topic for discussion was changeable copy and there was an exhibit for that.

Director Lieber explained that it wasn't exactly scientific but she found some examples online and in using her measuring tool, tried to give them an idea about what percentages of changeable copy looked like. She stated that the original version that the Commission had looked at had 75% changeable copy for ground signs and the Commission wished it to be reduced to 50% so the current reading of the code as proposed would be ground signs accessory to a commercial use, for example, could have up to 50% changeable copy. She discussed that on the exhibit were just some examples where she thought it would useful to get a visual as to how those things felt on actual signs in the world.

Chairman Smolik stated that in looking at the exhibit and seeing what 75% of changeable copy looked like, he wasn't really a fan and preferred more of a range of 50% to 65%.

Vice-Chairwoman Swallow stated that when it came to changeable copy, she thought less was better because it could be distracting. She commented that she would prefer 50%.

Council Liaison Abens stated that the 75% really depended on the size of the lettering and if it were smaller lettering, they could fit more into it. He added that if the lettering were larger, they could only fit so much.

Chairman Smolik stated that the Commission felt it should be 50% which was what it was currently in the sign code. He asked if there were any other major items besides the duration of temporary signs.

Director Lieber stated that she felt they were pretty much in agreement regarding the other edits that were made. She stated that she didn't remember any other open discussion items other than temporary signs from the last meeting.

Chairman Smolik stated that they could either table it or make a recommendation.

Council Liaison Abens commented that in speaking as a Council Representative, he would prefer a recommendation rather than table it to get it to Council as fast as they could because they had other things pending around it that needed decisions made on.

Moved by Swallow and seconded by Ali to recommend adoption of Chapter 1286, Signs, as the sign code, with the 50% changeable copy and without time limits on temporary signs.

A roll call vote was taken and the motion failed.

Yes – 2 No – 3

Director Lieber stated that the Commission had the ability to make the changes that they would find acceptable to have a positive recommendation to Council. She explained that it might be a better route to

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go to make a motion to recommend to Council with the changes to the exhibit. She mentioned that the Commission was 95% in agreement about most of the chapter. She stated that she would rather the Commission put on the record what their recommendation was and make that part of an approval rather than just a rejection.

Moved by Smolik and seconded by Graupmann to recommend adoption of Chapter 1286, Signs, with a duration placed on all temporary signs for six months.

Member Ali stated that he wanted to see less than six months. He thought it 30 to 60 days was fair.

Council Liaison Abens stated that he agreed with Mr. Ali regarding 30 to 60 days but by going with six months it would eliminate some of the legal hassles that might occur with a shorter time period.

Assistant Law Director Morgan stated that she had been told that there wasn't a second for the motion made by Chairman Smolik. She stated that they could end up somewhere else but they needed to make a second motion and then discuss the various ideas.

Moved by Smolik and seconded by Abens to recommend adoption of Chapter 1286, with a duration placed on all temporary signs for six months.

Chairman Smolik stated that they were discussing that Mr. Abens thought six months was too long.

Council Liaison commented that he that would like to see a shorter time limit but could also appreciate that if they did make it shorter they may run into more legal issues with some of the residents who like to leave their temporary signs out longer.

Member Ali stated that he just wanted to see a duration.

Council Liaison Abens stated that by going with the longer duration they may avoid some of the issues that Director Lieber raised and have fewer people violating it as a result because some of the temporary signs wouldn't last six months.

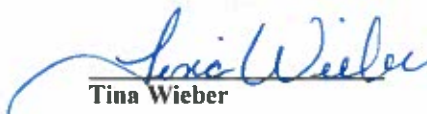
A roll call vote was taken and the motion carried to approve Chapter 1286, Signs, with a duration placed on all temporary signs for six months.

Yes - 5 No - 0

ADJOURNMENT:

The meeting was adjourned at 8:00 PM.


James Smolik
Chairman


Tina Wieber
Deputy Clerk of Council

Tuesday, June 13, 2023
Date Approved