



APPROVED: May 11, 2009

**CITY OF ALBANY
PLANNING COMMISSION**
City Hall Council Chambers, 333 Broadalbin Street
Monday, September 15, 2008
5:15 p.m.

MINUTES

Planning Commissioners present: Paul Davis, Lolly Gibbs, Cordell Post, Dala Rouse, Mark Spence and Michael Styler

Planning Commissioners absent: David Faller, Wayne Rackham and Scott Whitney

Staff present: Community Development Director Greg Byrne, Planning Manager Don Donovan, and Administrative Assistant I Sheena Dodson

Others present: Eight others were present in the audience.

CALL TO ORDER

Vice-Chair Mark Spence called the meeting to order at 5:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL

APPROVAL OF THE August 11, 2008, MINUTES

Commissioner Cordell Post moved to approve the minutes as written. Commissioner Dala Rouse seconded the motion, which passed 5:0. Commissioner Mark Spence abstained from voting due to absence.

LEGISLATIVE PUBLIC HEARING, Case File Number DC-02-08 (SIGN CODE)

Spence called to order a public hearing on Planning file DC-02-08, Amendments to the Albany Development Code (ADC) sections that relate to temporary portable signs.

Declarations:

None.

Staff Report:

Planning Manager Don Donovan summarized the written staff report. The staff report explains that in February 2008, someone from the public expressed the opinion to the City Council that the City's temporary portable sign regulations were too restrictive and not enforced evenly throughout the City. At that time the City Code Enforcement staff stepped up their enforcement effort because there were numerous citizen complaints about the number and location of temporary signs around town.

The City Council (CC) directed staff to attend a City Council work session and explain the regulations and how staff enforces them. After that discussion the City Council directed staff to review the regulations for temporary portable signs and to make recommendations for changes, if staff felt changes were needed. He stated the staff had completed the review and the results are in the staff report.

Donovan continued, noting that the City of Albany's Development Code (ADC) uses the term "temporary portable sign" to refer to small "A" frame signs that businesses sometimes put out in front of their stores, along the sidewalk or along the street. Another category of these signs has nothing to do with the stores along the street, the sign advertises something else, and the most common is a real estate sign.

The requirement for temporary portable signs cover two physical locations; signs in the public street right-of-way and signs that are on private property. Donovan explained that temporary signs are not allowed in the public street right-of-ways. Each business can have one temporary sign on their private property, which must be setback from the public right-of-way at least 10 feet. This sign is currently allowed by the ADC for a maximum of 60 days in a year. He stated that the ADC identifies these signs as temporary promotional business displays. The ADC states that these signs will be used for promotional events and not for everyday business. Everyday business needs accommodated by the two permanent signs allowed for each business. Generally, these are a wall sign and a free standing sign. The temporary sign that is allowed is in addition to the two permanent.

The City staff did research to see how other cities regulate temporary signs. Staff looked at three nearby cities: Eugene, Corvallis and Salem, and a sample of cities across the United States. This is done to ensure that the City's regulations are similar to other cities. Eugene, Salem and Corvallis all prohibit temporary signs in public street right-of-ways. The reason most cities prohibit these types of signs is that right-of-ways are publicly owned and there are safety concerns in having too many signs near streets or sidewalks. The City's Municipal Code (AMC) has a provision that the City Manager is allowed to issue a permit for such signs if the property owner requests a permit. The City does not get many of these requests and therefore does not issue many of these permits.

The staff report notes that Oregon Department of Transportation (ODOT) prohibits temporary signs in public street right-of-ways in ODOT's jurisdiction. Several of the streets in Albany's commercial districts are on ODOT highways. Even if the City allowed temporary signs in the public right-of-ways, ODOT prohibits them and ODOT has jurisdiction over these streets; Santiam Highway, Pacific Boulevard and 9th Avenue. Neither Linn nor Benton County allow private temporary signs in their county road right-of-ways. Some roads in Albany such as Springhill and North Albany, are still under Benton County jurisdiction.

The staff recommends keeping the prohibition of signs in public street right-of-ways, and does not recommend changes for the regulations for private property either. The regulations for signs on private property are primarily in regards to aesthetics. Public right-of-way is for public safety. Many people consider too many signs placed close to the street to be clutter and distract from the way they think the City should look. Evidence of this is that people call and complain about how many signs there are and where they are located. Donovan recommends there to be a balance between the economic value of a temporary sign and the value of a clean uncluttered street.

The staff recommendation is for temporary signs for promotional events to be made clearer in the Albany Development Code (ADC) and to clarify why the signs are allowed and the reason for the 60 days. The other change recommended is to incorporate the policies that the City currently applies to the Downtown area into the ADC which are not in the ADC now. The policies were adopted by a City manager in the 1980s because there were no rules that applied to the Downtown. The rules for the temporary signs in the Downtown area are different than other places as the buildings are located right at the public street right-

of-way and sidewalks are in the right-of-way. For that reason the City came up with policies that addressed the Downtown area but have not been adopted into the Code. The rules would state that the sign be placed by the building and not obstruct pedestrian traffic.

Donovan introduced Building Official Melanie Adams, whose duties include supervising the compliance staff. He stated that a couple of the compliance staff is responsible for enforcing the Code and Adams may have some comments regarding enforcement. He stated that Adams had written up a proposed ADC section that would address attaching signs to vehicles (Exhibit A). There is section in the Code that prohibits putting signs on vehicles. He continued saying that there is difficulty enforcing signs on vehicles. He said that Adams was suggesting that the PC may want to consider revising the language in the Code.

Donovan stated that Code Enforcement was addressed at the end of the staff report. He clarified that this public hearing is to listen to the public regarding the temporary signs rules and if the Planning Commission (PC) thinks the ADC should change, the PC can suggest changes to the Code. Code Enforcement is separate and is not subject to land use rules. He recommended closing the public hearing and then if there was a desire for a discussion regarding Code Enforcement to do it then.

Styler asked about magnetic signs or signs painted on vehicle doors, such as contractors, and if those were permanent signs. Donovan stated that the discussion was started because of vehicles carrying an "A" frame sign in the back of the truck. He said ADC 13.680 prohibits that. He suggested the Code be worded differently and be placed in a more prominent place.

Testimony In Favor: None.

Opposing Testimony

Deborah Sheretz, 794 Monte Clair Drive NE, stated that she is an independent hair stylist who is new to the area and shortly after purchasing a professional sandwich board she learned of the Code. She believes that the Code hinders and targets small businesses.

Sheretz said her sandwich boards are being penalized. Her sandwich board sign for her business is very professional in nature and easy to read.

Sheretz wanted to address the unlimited use of sandwich boards in the Downtown area. She stated that because there is street parking and no easements it causes visual congestion for drivers and pedestrians. She stated that it is more of a challenge to have sandwich board signs Downtown than the area where she is located. She is able to comply with the spacing codes from the property line and her sign would not be in the line of sight for traffic nor would it be impeding pedestrians. She expressed frustration that if her sign was up for more than 60 days it was not allowed but the same thing did not apply to those located in the Downtown area.

Sheretz said she purchased her sandwich board for \$200 and then paid the required permit fee. When she completed the 60 day period she had to search for alternative advertising. She is currently using two local magazines and newspaper, and has spent just under \$3,000. She has the same number of new clients from the sandwich board as she does with the local magazine and newspaper. She stated that as a small business owner she needs to use a tool that is effective and inexpensive. She asked the PC to reconsider the sign code for sandwich board signs. She has no difficulty resubmitting for a permit every 60 days, nor would she have a problem submitting the text that would be on the sandwich board.

Rouse asked where the business was located. Sheretz stated that her business, Artistic Hair Design, was located at 1800 Geary Street.

Spence asked if Sheretz knew what the square footage of allowable signage is. Sheretz did not know.

Styler asked Sheretz how close to the street her business was located. Sheretz stated that it was 25 feet from the right-of-way.

James Brooks, 1128 & 1208 Pacific Boulevard SE, expressed disappointment in the outcome of what was being recommended from staff. He stated it was unfair that the Downtown area is able to use the sidewalk. He stated that at his location there is no free space. He said that the Downtown is allowed a three-foot-wide by three-foot-tall sign. His signs are currently two feet wide and three feet tall. He said those signs have been there for ten years. He said regarding other cities having similar codes, that those cities have a hard time enforcing the sign code. He stated that even though another city has a similar sign code, did not make it perfect.

Brooks said a tremendous difference for his business would be eliminating the 10 foot rule. It would be a great starting point.

Brooks originally thought the public hearing would address signs in the right-of-way and not temporary signs. He was surprised to find out that temporary signs were not allowed at all. He said there are temporary signs scattered everywhere throughout the city and most are in violation.

Brooks showed pictures of his business two permanent signs (Exhibit B). The photo showed that the “76” sign was blocked by a tree. He stated that he wasn’t the only business having trees blocking their signs. He stated that his competitor, Chevron, had three trees blocking their sign. He suggested that the only solution for him is to add onto his permanent signs. He would not spend hundreds or thousands of dollars, plus lobbying with his business corporation to try and get more signage on the sign in the front of his business, because it cannot be seen. He cannot afford a sign that stands 80 feet in the air and that is 50 feet wide.

Brooks asked how many people are complaining in a year. He thought it was unfair to spend this much money and time to punish small businesses.

Spence pointing to Exhibit B asked about the 10-foot setback and how the sign seemed to go beyond the square footage requirements. Brooks stated that particular sign is not on his business it was on 9th street. Spence asked if the 10-foot setback was eliminated would Brooks have a problem with the square footage requirement. Brooks stated that the problem was not the square footage requirement it was not being allowed to have a sign for longer than 60 days.

Brooks stated that his signs cost approximately \$200 apiece. He stated the signs get put out when the business opens and puts back in when the business closes. He recommended that everyone to be able to have a single portable sign. He asked who to talk to about the tree blocking his sign. He expressed the need for people to see his business.

Styler asked if the picture on Attachment E was Brooks’ sign. Brooks affirmed, stating that it is not in front of his station, it is on 9th Avenue. Styler stated that from his experience trying to get onto 9th Avenue his view was blocked. Brooks stated that Styler was complaining about the Arco sign. Styler said that this sign was also in the same area. Brooks stated that sign was down, it was taken down the day that he was asked to have it removed. He said the signs he is “fighting” for are the signs in front of his business.

Tom Krupicka, 350 Hickory Street NW, thought enforcement was the bigger issue. He received his enforcement letter and took down his sign but many others still have their signs up. He asked if the City was going to be able to enforce if there is an addition to the sign code.

Krupicka said a concern is the number of signs that a business is allowed. There are many businesses that have multiple signs. He is curious how the City will address the issue.

He asked why realtors' signs were exempt. He asked how the City would enforce regulations on vehicles. He asked if a sign was on a car if it was not considered free speech.

Phyllis Vollstedt, 451 Quarry Road, asked why the 10 feet beyond the right-of-way was required. Donovan said part of it is for safety. Signs cannot be in the vision triangle where people cannot see, the 10 feet allows vision clearance. Vollstedt said that the 10 feet eliminates anyone from putting up a sign, because if added to the right-of-way it is too far back. She suggested allowing permission for those that needed or wanted to, to not have the regulation of 10 feet but to get permission from the property owner. She said many homeowners would not want too many signs on their property, but farmers and her business, Christmas trees, need signs.

Neutral Testimony: None.

Staff Response:

Donovan clarified that the realtors' signs are not exempt from the Code. He stated that the ADC requires that real estate signs have a size and time limit. A sign can be put in front of a house that is for sale but cannot be put at the street corner. He said signs down the street are in violation but a single sign in front of a home that is listed for sale are allowed. If the City receives complaints regarding these signs, the City will go take care of it.

Vice-Chair Spence closed the public hearing at 5:54 p.m.

Commission Discussion:

Donovan reiterated that the Planning Commission would need to make a recommendation to the City Council regarding signs.

Post commented that there are a plethora of issues. He said the first is how long the signs can be up for, either 60 days, or shorter or longer. For practical purposes the PC needs to think about how a decision would be regulated. The PC also needs to think through the number of temporary signs allowed per business, will it be one or two. Another issue will be setbacks; he has difficulty with the 10-foot setback unless it is for vision clearance. He said if signs were a certain size there shouldn't be a problem with vision clearance.

Post said another issues to address is whether to put signs in the right-of-way. He does not see a compelling reason to put signs in the right-of-way. Spence asked if Post meant Downtown. Post clarified it was outside of the Downtown area. He said some businesses are on state highways which is ODOT's jurisdiction. He asked Donovan for clarification that if a sign is in Benton County's jurisdiction do the City's sign regulations apply. Donovan stated that Benton County had agreed for the City to enforce the sign code in the public right-of-way.

Rouse thought more discussion was needed and recommended a work session before making a recommendation to the City Council. Post agreed. Donovan stated that the staff would like a decision made before the holidays as more temporary signs are put up and there are more complaints.

Rouse expressed that there were some signs that were not being addressed such as the Civic Organization, East Albany Lions Club, and Christmas Story Book Land. She said that ADC 13.680 addresses temporary business displays but those organizations are not businesses. Donovan said organizational signs are addressed in the staff report. He said that the City cannot judge the speech of signs differently. He stated government cannot make that distinction but private property owners could. Spence said one clear distinction is it is not a sign on the property with that business being advertised. He said those would fall under political campaign and is temporary events. Rouse stated that they need to address if their temporary signs on public right-of-way or small permanent signs on their property and how far back to put them. She is not ready to forward and recommend the Sign Code to City Council. Donovan stated that it would be helpful to know what the PC would like to still work on.

Rouse said some word critiquing of the ADC was Code needed. Donovan requested a list. Rouse said vehicle signs and the need to be specific which type of vehicles, and whether it was being used at the business or not. Post stated it would be difficult to regulate vehicle signs. He gave examples of a real estate sign painted on a car versus the vehicle parked at the post office. Adams stated that the vehicle is a difficult issue and the draft language was to be a discussion starter. She stated she wanted to have consistent enforcement. She said it is important the City treats everyone the same. She said from a staff standpoint it was difficult to inform someone that they were unable to have their temporary sign out when someone else would have their sign on a vehicle parked in visible parking lots. She expressed the need to explore a solution and to come up with a fair means of allocating signs for the public, including vehicles. Post said that if a sign is painted on a vehicle it would be different than someone with a sign in the back of a truck. Gibbs asked if there could be a permit required. Davis commented that all signs could be required to have a permit.

Spence suggested limiting how many signs per business, to eliminate the ten-foot setback and ask if each business has used up their allotted square footage. He commented that is what makes Downtown very different. He said the Downtown area has a smaller allotment of footage for signs which makes them different then business elsewhere.

Gibbs asked what Brooks remedy is to effectively use his permanent sign, with the trees blocking it, so he does not need a temporary sign. Rouse agreed it needed to be addressed. Styler commented that the sandwich board signs on Brooks's property are advertising other businesses. He said that the signs advertising his business should not have anything to do with advertising other products on a sign board.

Post asked if sign was up for 60 days why they were calling them temporary. Donovan stated the Code could be changed to state the signs could be up for a longer duration. Staff currently thinks that the regulations in place are ok. If the PC disagrees then the Code can be changed. The PC can determine what they want the town to look like. Rouse suggested the PC have a say in how the signs are regulated.

Spence stated these are temporary because the sign is being brought in at night. He said that might be the distinction with automobiles. These are not permanent structures mounted in the ground or fixed in the building. He suggested that if a sign is on a car that it be able to be removed. Rouse said she had a sign on her truck for her business and the sign could not be removed.

Styler thought the City needed regulation distinctions for people that want a small permanent signs versus someone who wants a temporary sign. Spence using the hair salon as an example stated that if a structure was small and the setback from the sidewalk is 25 feet, he did not see how else a person could advertise.

He did not know what to call it in the Code; possibly small business. Rouse did not think it would be a temporary sign. A temporary sign in the Code is 60 days and that sign would be there for 365 days. She agreed that there was a need of a different category for small signs that are permanent.

Post asked if there was a consensus of not allowing signs in the right-of-way outside of the Downtown area. Gibbs asked if the staff recommendation was to extend the Downtown requirement and if the Downtown signs were temporary or permanent. Rouse asked for clarification of what is considered the Downtown area. Spence clarified that it is the central commercial downtown.

Spence suggested eliminating the 10-foot setbacks as long as there was no visual impairment. Rouse and Davis agreed.

Spence asked if permanent signs would have to be at a certain elevation. Donovan said no, but each business is allotted 2 signs. Typically one is wall sign and another is a free standing sign. He said that free standing sign covers all sizes. He said that if someone hasn't used up their two permanent signs they would be allowed to put a small permanent sign in front of the business. Spence clarified that there would still be restrictions on visibility. Donovan agreed, visibility restrictions were for public safety.

Styler asked if the right-of-way included sidewalks in most cases. Donovan affirmed. Styler asked if 10 feet back from the right-of way was the minimum. Donovan clarified and stated that 10 feet back is for temporary signs, permanent signs could be put right at the right-of-way.

Gibbs suggested that the PC accepts staff recommendation but extend what is allowed for the Downtown area to other areas if permitted by the City manager. She would like a uniform Code. Rouse explained that the Downtown area allows signs in the right-of-way because the right-of-way is a large sidewalk. She said that other areas do not have the large sidewalks and if there was a sign there would not be enough room for people to walk around. Donovan clarified that the use of sidewalk is limited to 3 feet immediately adjacent to the property line, which is usually the wall of the building in the Downtown area. In addition there is to be not less than 5 feet of unobstructed sidewalk for pedestrian used. He said that the sidewalks in the other areas range about 5 to 6 feet. There would be no way to maintain the 5 feet of unobstructed sidewalk. He said this is what the current policies are for the Downtown area and he is recommending they be added to the Code. Rouse would not like to see those types of signs anywhere but the Downtown. Gibbs stated the signs are already seen elsewhere, but without being permitted.

Spence thought one way of solving the temporary signs and enforcement is if a temporary sandwich board sign has been up for 60 days, to have enforcement give an option of either confiscating the sign or informing that it could be converted into a permanent sign. Donovan stated that the enforcement effort is prolonged it includes phone calls and converting temporary signs to permanent signs. The City devotes a lot of resources to help the public solve their advertising goals and difficulties, including staff time.

Post said questions the PC needs to ask are; how long can removable, portable signs be up, how many signs per business, and what should the setback requirement be. Donovan reiterated saying the PC could break it down into sections and decide. The sections being is one sign ok, is that too many or not enough; for 60 days, is that too long or short; 10 feet back from the property line, is that too close or too far away.

Rouse asked if staff could come back with language. Donovan said that staff had found these to be reasonable and it is up to what the PC wants to do. He said another way to look at the sign issue is knowing how many businesses are on Pacific Boulevard and if everyone had a temporary sign what would the town look like and is that the way the PC wants it to look. Rouse said that if some business signs are blocked by trees, she would rather have the trees and the use of a portable sign. Donovan said that the City is always willing to work with people on location of their signs and help make it legal.

Gibbs asked if defining what is temporary was needed. Donovan agreed. He said the heading is “temporary promotional” signs; these signs were to be for promotional events and not meant to be permanent advertising. Rouse thought businesses are in need of permanent small signs.

Styler recommended it be clear in the Code that there be “NO” signs in the public right-of-way. Rouse agreed, with the exception of the Downtown area, where there is adequate sidewalk. Post agreed.

Spence suggested removing the 10-foot setback and a state that a temporary sign could go up to the property line. Post said as long as there is a vision clearance. Donovan stated it is already in the Code not to obstruct the vision clearance. Adams said here is a distinct vision clearance triangle.

Spence asked about having available a 60, 90, 120, or 365 day permits. Styler affirmed. Rouse stated that if it is a promotional sign it should be limited to a specific amount of time. Spence said anything over a certain amount of time should be structurally permanent. Rouse asked if a person takes in a sign every night would it be considered temporary or permanent. Post stated he was in favor of having it be called permanent portable signs. He said a business could get a permit to have a sandwich board sign as long as they want. He suggested a business could have one on each frontage. He said it is already stated in the Code but the City does not have the resources to enforce it, so some that comply are at a disadvantage.

Rouse asked for the language to come back to the PC. Donovan asked for clarification of what the PC wanted. Rouse recommended a 30 to 60 day permit for promotional signs. She suggested two classifications “temporary” and “permanent portable”. Post suggested there could be 365 day permit.

Adams said the PC could make a recommendation on the enforcement. She stated that the enforcement team makes an effort to educate the public but there are other ways to enforce. She said that a policy could be created, where a notification is sent and then a sign is removed, which is not business friendly. She stated that there is a spectrum of ways to enforce. Currently, enforcement spends many days and weeks working with business owners.

Spence is not comfortable with the notion of a permanent “temporary” sign. He suggested that if they do allow it then only one sign. Post said they would get one sign per frontage. Rouse agreed. Spence stated that a permanent fixed sign needs to be able to stand against the weather. Rouse suggested reference the Code where it talks about taking care of signs.

Post stated he would be in favor of an annual permit for a portable “A” frame sign that is taken in every night and can be renewed each year. Spence asked if this would count towards total signage of a business. Donovan stated that this was in addition to the two allowable permanent signs.

Post suggested that the vehicle signs should be discussed with the City Attorney to craft language to address the difference between a vehicle and a person standing on the street.

Commission Action:

Consensus was to have staff bring the Sign Code back to PC in two weeks.

CODE ENFORCEMENT

Davis thought the 365 days would help with enforcement. Gibbs recommended that the offender have a copy of what the rules are. Rouse stated enforcement was needed if a sign looked ragged. Adams asked for suggestions on enforcing signs objectively. Rouse said any way that is presently done. Spence stated that if it is approved on day one and should look as good on day 365. Rouse wants to keep the

maintenance of signs in the code. Rouse stated that maybe sign permits would not be renewable until it is brought up to look better.

Post stated that the changes to the sign code are to be more liberal and to take a tougher stance on those that don't meet the sign code. Spence said there would be more complaints. He stated the City may need direction to talk to these people who are complaining. Rouse asked what the complaints were. Adams stated that complaints vary from sidewalks with "A" frame signs that people bump into, to does our town look ugly with all the signs, or "I live in a residential neighborhood and the corner has too many signs". She said that sometimes complaints are from competing business owners who cannot have a sign of their own and they want equal treatment. She stated they get everything including the maintenance issues.

ACTIVITY UPDATE:

Donovan noted that a conditional use was coming September 29, 2008.

Donovan stated that Director Greg Byrne was considering a Planning Commission planning retreat. Byrne stated that he wanted to schedule something that worked best for everyone to attend. Discussion followed regarding available times. Byrne will come back with options at the next meeting.

NEXT MEETING DATE:

The next meeting of the Planning Commission is to be September 29, 2008.

ADJOURNMENT

Hearing no further business, Vice-Chair Spence adjourned the meeting at 6:56 p.m.

Submitted by

Reviewed by

Signature on file

Signature on file

Sheena Dodson
Administrative Assistant I

Don Donovan
Planning Manager