

**PLANNING COMMISSION
MEETING
JANUARY 25, 2021**

MEMBERS PRESENT: Harvey Goldberg, Chairman
Joseph Comeaux, Bradford Gamblin,
Susan Hill, Donna Peterman,
Paul Sacilotto, Edward Weiner

MEMBERS ABSENT: Roger Peterson

OTHERS PRESENT: Lisa Hannon, Zoning Official
Mitchell Austin, Chief Planner

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. February 22, 2021

CITIZENS COMMENTS ON AGENDA ITEMS ONLY

- None.

APPROVAL OF MINUTES

- A. November 23, 2020
- Ms. Peterman MOVED, Mr. Weiner SECONDED approval of the November 23, 2020, minutes. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- A. Sign Code Draft
- Ms. Lisa Hannon, Zoning Official, drew attention to the Sign Code Draft (Draft) denoted in the agenda material, noting the City Attorney recommended the City's sign code be amended to provide for specific, content-neutral regulation. She explained the intent and purpose was to promote public welfare through a comprehensive system of consistent and content-neutral sign standards and requirements, advising same would mean signs could only be regulated by size, location and the number of signs per parcel. She stated a sign survey available to the public from August 20, 2020, to September 30, 2020, received 877 responses, noting the Draft was updated based on that feedback as well as comments from the December 2, 2020, City Council meeting. She explained the section labeled "Iconic Signs" was currently under revision pending additional public input and review by the Legal Department. She then drew attention to the results of the sign survey, noting recommendations on the number of signs per parcel varied from allowing no signs to unlimited signs with the most popular response being the allowance of one per parcel.

- Mr. Goldberg inquired whether the proposed ordinance correctly stated that signs shall be limited to four per parcel.
- Ms. Hannon replied affirmatively, verifying the Draft was updated based on City Council's direction after they had been presented with results from the sign survey.
- Mr. Weiner explained a limit of four signs was proposed since every four years municipal elections might coincide with presidential elections.
- Mr. Goldberg suggested a special exception be built into the ordinance which allowed the number of signs be limited to election timeframes.
- Ms. Hannon stated the City Attorney had advised the United States (US) Supreme Court could view the City as trying to circumvent the requirements for sign regulations to be content neutral.
- Mr. Mitchell Austin, Chief Planner, added the City Attorney had interpreted the case law regarding signs as limiting a municipality's authority to regulate same. He explained certain restrictions could be perceived as attempting to regulate content rather than size, type and location, concluding there was a disconnect between what the community might desire versus the US Supreme Court decisions related to the US Constitution.
- Ms. Peterman inquired if the City Attorney researched whether surrounding communities had comparable sign codes.
- Mr. Austin responded a majority of adopted sign codes could possibly be found noncompliant with current standards under the case law and could be challenged.
- A lengthy discussion ensued regarding the City's ability to regulate content of signs along with the current and proposed regulations.
- Mr. Weiner opined the interpretation of content-neutral was in direct conflict with the purpose to promote the public health, safety and welfare.
- Ms. Peterman recalled a meeting with the Board of Realtors which produced much discussion on visual clutter from signs, opining the Draft would amplify same and conflicted with what residents desired.
- Ms. Hill questioned whether revisions to the sign code were mandated.
- Mr. Austin replied the City Attorney had advised any amendments to the sign code needed to bring the City closer to compliance with current case law, explaining the City was liable if the existing sign code was enforced since portions of same were not content-neutral.
- Discussion continued regarding the limits of "freedom of speech" and "content-neutral" regulations, with some members expressing uncertainty as to how to determine same.
- Mr. Sacilotto stated there was a legal opinion regarding what was not permissible under freedom of speech which included profanity, obscenity and defamation.

- Ms. Hannon then drew attention to signs for commercial properties and reviewed the proposed specifications for same, including a limit of five per acre.
- Mr. Comeaux inquired if the limit could be less for lots smaller than an acre.
- Ms. Hannon responded same would require a new formula to be created.
- Mr. Goldberg opined the proposed changes created an opportunity for more visual blight in residential and commercial areas.
- Ms. Hannon explained safeguards were in place relating to line-of-sight visibility for residential and commercial signage, including a prohibition against placing signs within ten feet of the edge of the roadway. She then stated Section 11.15 of the Punta Gorda Code, which addressed creative signs, was renamed Iconic Signs, reiterating the draft was pending additional input and review by the Legal Department. She reviewed some of the proposed content-neutral design criteria for iconic signs.
- Ms. Peterman questioned if the criteria would address window signs.
- Ms. Hannon replied same was addressed in Commercial Property Window Signs, noting solid coverings would not be permitted.
- Mr. Austin stated provisions of the City Center were more restrictive than other commercial areas within the City, explaining the intent was to provide alternate avenues for placement of signage which was effective for businesses and fit with the existing historic character of the downtown and adjacent areas.
- Ms. Hannon displayed photographs containing examples of iconic signs based on the Denver Sign Code, noting same would indicate the nature of the business on the building while being creative.
- Mr. Goldberg noted many European villages exclusively used iconic signs, speaking in favor of same.
- Mr. Weiner then verified the following from the Draft: sign-twirlers were permitted according to Section 11.2(b)(9); directional signs were permitted 10 feet from the edge of pavement if on private property according to Section 11.4(a)(16); Section 11.4(a)(49) contained a typo and should state “parking stripes”; General Single-Family and General Multi-Family were not differentiated and were categorized within the same residential overlay district according to Section 11.4(a)(63); Section 11.5(p) should state “including but not limited to”; monument signs within the City abided by Crime Prevention through Environmental Design. He then verified the number of business names on a monument sign was not limited, expressing safety concerns regarding readability of the signs while driving by same.

- Mr. Austin noted the concern could be discussed with the City Attorney to determine whether there was rationale to limit the number of messages on signs based on the speed of the roadways nearby.
- Mr. Sacilotto opined the revisions to the Punta Gorda Code could lead to unintended consequences, suggesting inclusion of a provision to review same within a year.
- Mr. Gamblin noted there were multiple US Supreme Court rulings regarding content of signs, suggesting same be examined.
- Ms. Hannon stated the City Attorney used Reed versus Town of Gilbert as part of his research for drafting the sign code.
- Mr. Gamblin requested information on the US Supreme Court rulings be provided to increase members' understanding of the matter.
- Mr. Comeaux then verified the following: signs prohibited from being placed or painted on motor vehicles or parked trailers did not include signs on vehicles utilized for transportation each day or parked at business locations (line 491); "A" frame signs were only permitted on properties granted special exceptions (line 709); Uniform Sign Plans were required for new developments and were previously optional (line 1327).
- Ms. Peterman opined the City Attorney was not achieving the objectives of the City, expressing frustration with the responses to citizen's feedback from the survey.
- Mr. Goldberg indicated Councilmembers appeared to be attempting to avoid future legal action, opining same might not be in the best interest of the City.
- Mr. Comeaux agreed, adding Councilmembers should provide justification for the decisions which contradicted the feedback received.
- Mr. Gamblin pointed out there were ten cases regarding Reed versus Town of Gilbert, noting one of the rulings could provide clarification for inquiries relating to objectionable sign content.

UNFINISHED BUSINESS

- A. Discussion Regarding Proposed Development of the Form Based Codes
 - Mr. Austin announced City Council discussed the draft revisions to the Coastal Management, Housing, Transportation, Historic and Future Land Use Elements of the Comprehensive Plan 2040 (2040 Plan) at their December 2, 2020, meeting. He provided a presentation on the shift from work on the 2040 Plan to the Land Development Regulations (LDRs), stating staff was directed to postpone updates to the 2040 Plan and move forward with updating the LDRs. He noted staff had since initiated a specific authorization with the consultants to review the LDR updates. He clarified the purpose and intent for updating the LDRs, which included deviating from a Conventional Zoning Map to Form Base Code (FBC) Regulating Plan. He indicated the five elements needed for

FBCs were an Illustrative Plan, a Transect, a Regulating Plan, Building Form Standards and Public Realm Standards (slide 20), then briefly reviewed the differences between Ecological Transect, Human Habitat Transect and FBC Transect (slides 22-24). He explained the development of a Regulating Plan consisted of reviewing how transect zones would apply to sections of the City, verifying each transect zone would have specific building form standards which could be based on precedents found in the community. He emphasized the FBC needed to be legally defensible and consistent with the community's expectations. He then briefly reviewed the Public Realm Standards and Street Types (slides 30-31), concluding by reviewing the next steps for the LDR Project Milestones (slide 33) which included a public workshop in March 2021.

- Ms. Peterman questioned if most of the plans were directed toward District One.
- Mr. Austin replied affirmatively, confirming the entirety of the proposed subject area was land platted prior to the development of Punta Gorda Isles.
- Ms. Peterman recommended staff attempt to engage residents of District One as they would be the most impacted by the proposed changes.
- Mr. Weiner questioned the reason Building Form Standards stated Architectural Standards were optional (slide 20).
- Mr. Austin replied same was not necessarily included in the general construct of the FBC, explaining architectural standards were mandatory for the City although same could be optional for other communities.
- Mr. Weiner then suggested the graphics on slide 21 be more legible and the Ecological Transect on slide 22 relate more to areas within the community.
- Mr. Austin clarified same would need to be created if specific to an area.
- Mr. Weiner drew attention to the graphic on page 25, opining examples from local areas in the community should be utilized instead. He then proposed a traffic calming device such as a roundabout be considered for the Public Realm Standards (page 30).
- Mr. Austin concluded a public work shop for drafting LDRs was scheduled between the summer and fall of 2021, explaining the initial draft would then be tested at key parcels so that residents could visualize potential developments which were compliant with the Code. He then clarified staff and the consultants had not made any assumptions regarding what potential developments would be.
- Mr. Comeaux noted residents might believe the proposed developments were permanent when being community specific.
- Mr. Austin added planners needed to be careful with illustrations as residents might believe real projects were being imposed on their community, noting effective communication would be required.

STAFF COMMENTS

- None.

COMMITTEE/BOARD COMMENTS

- Mr. Weiner and Mr. Goldberg expressed appreciation for staff's efforts.

CITIZENS' COMMENTS

- None.

ADJOURNMENT

- Meeting Adjourned: 4:00 p.m.

Harvey Goldberg, Chairman

Leah Pues, Recording Secretary