

HOPKINS PLANNING & ZONING COMMISSION
AGENDA
Tuesday, August 22, 2017
6:30 pm

THIS AGENDA IS SUBJECT TO CHANGE UNTIL THE START OF
PLANNING & ZONING COMMISSION MEETING

- I. **CALL TO ORDER**
- II. **ADOPT AGENDA**
- III. **OPEN AGENDA – PUBLIC COMMENTS/CONCERNS**
- IV. **CONSENT AGENDA**
 - 1. Minutes of the July 25, 2017, Planning & Zoning Commission
- V. **PUBLIC HEARING**
 - 1. Planning Application 2017-11-CUP & VAR (WITHDRAWN)
- VI. **OLD BUSINESS**
 - 1. Planning Application 2017-06-TA: Alternative Energy Systems
 - 2. Planning Application 2017-07-TA: Sign Ordinance Update
- VII. **NEW BUSINESS**
- VIII. **ANNOUNCEMENTS**
 - 1. 2040 Comprehensive Plan Update – Cultivate Hopkins
- IX. **ADJOURN**

PLANNING & ZONING COMMISSION MINUTES

July 25, 2017

A regular meeting of the Hopkins Planning & Zoning Commission was held on July 25, 2017, at 6:30 p.m. in the Council Chambers of Hopkins City Hall.

Present were Commission Members Laura L. Daly, Kristin Hanneman, Brian Hunke, Matthew McNeil, Emily Wallace-Jackson and James Warden. Commissioner Libby Goeman was absent. Also present were Economic Development Intern Kurt Howard and City Planner Jason Lindahl.

CALL TO ORDER

Chair Hunke called the meeting to order at 6:30 p.m.

ADOPT AGENDA

Commissioner McNeil moved, Commissioner Hanneman seconded, to adopt the agenda. The motion was approved unanimously.

OPEN AGENDA – PUBLIC COMMENTS/CONCERNS – none

CONSENT AGENDA

Commissioner Daly moved, Commissioner Warden seconded, to approve the minutes of the June 27, 2017, regular meeting. The motion was approved unanimously.

NEW BUSINESS

1. Planning Application 2017-06-TA: Alternative Energy Systems

Mr. Howard stated that this item has been initiated by staff to review the zoning code and identify barriers to the implementation of solar energy systems by residents and businesses in accordance with the Metropolitan Land Planning Act and the goals in Chapter 4 of the Hopkins Comprehensive Plan. Staff is participating in the SolSmart program, which provides free technical assistance to accomplish this objective, and preliminary stages of the program have included completion of a zoning review, which staff is asking the Commission to evaluate and provide feedback on to inform the preparation of a zoning code text amendment. SolSmart is a national designation program that offers high profile recognition for communities that have taken key steps to make it cheaper and easier to implement solar energy systems and signals to the solar energy business community that Hopkins invites economic development founded on principles of sustainability and environmental responsibility. The program addresses business process or administrative “soft” costs that increase time and money for installation. Designation is granted contingent on completion of a combination of required and elected steps for three levels of designation. Categories are weighted differently. Two foundational categories are (1) Permitting and (2) Planning, Zoning and Development. There are a number of other special focus categories. The City has submitted an initial application, which triggered a review of the city code by SolSmart to identify gaps and obstacles in the language that could be amended to further enable businesses and residents to install solar systems. Nine areas were identified. Staff proposes that the Commission examine the review and provide feedback.

Mr. Lindahl stated that although this is a national program, there is a local technical advisor working in the Met Council offices here, and staff has asked about issues specific to Hopkins, such as the landfill site, free-standing solar collectors, etc. This meeting serves to inform the Commission and have discussion before staff presents the actual ordinance for review. The City is not bound by any recommendation from SolSmart. Staff is looking at it from the viewpoint of what is good for Hopkins.

In response to questions from Commission, Mr. Howard clarified which actions were required for specific designations. He stated there is a lot of latitude in selecting actions.

Mr. Lindahl stated that the meeting tonight fulfills one requirement. In response to what can be expected to be achieved, Mr. Lindahl stated that technology advances such as Tesla shingles have and will continue to eliminate some of the need to regulate. Commissioners commented that solar PV systems amount to 50 percent of the cost and other hardware and soft costs amount to the other half. The Commission also asked about storage of energy and working with utility companies.

1. Planning Application 2017-07-TA: Sign Ordinance Update

Mr. Lindahl stated that discussion at this meeting will review the sign ordinance examples submitted by the Commission last spring, a public hearing will be scheduled in the future, and sign regulations are unique in that the content cannot be regulated because of First Amendment rights. He stated traffic, safety and aesthetic concerns must be met to create regulations, and the City Attorney is reviewing current regulations and the pamphlet from the League of Minnesota Cities. Mr. Lindahl stated the goal is to streamline regulations City-wide. He presented an overview of examples of present and potential regulations and issues and the photos of “liked and disliked” signs that Commissioners submitted previously. Discussion included:

- The thing that detracts from other community signage is uniformity; what’s nice about Hopkins is the character and difference of signs.
- Don’t want “planned community” look.
- Downtown district is west side of Sixth Avenue to east side of 13th Avenue.
- City should take more active approach to maintenance of signage and signage that is no longer relevant being left up.
- Want the new regulations to conform to what the market is driving.
- Update is necessary to address free speech issue and to make regulations more clear to applicants, i.e., housekeeping issues. Also, some new types of signs, i.e., lighted, electronic, are being requested and are not addressed or may take away from historic look of Mainstreet.
- East and west sections of Mainstreet have different regulations—should be reconsidered to have same regulations from 5th through end at west.
- Should be designed for pedestrians.
- Glen Lake area in Minnetonka is favorable example.
- Encourage more historic-looking signs.
- Shady Oak station shares area with Minnetonka; pedestrian needs should be considered.
- Be sure regulations don’t cause too much expense for starter businesses.
- Painting of window in child care building was discussed regarding whether it was considered signage.

- Blake Road/Excelsior corner signage was discussed—standards that require individual letters could be required.
- Is it appropriate to have a tiered approach such as requirements vs. guidelines?

ANNOUNCEMENTS

Mr. Lindahl updated the Planning & Zoning Commission on the following items:

1. Pawn, Coin and Currency Exchange Zoning Amendment Discussion
Staff feels that feedback from Commission and Council have reached a point of consistency, and the concern is how to deal with payday lending and not be too restrictive. Staff will take the Commission's comments to the Council and then come back for final feedback, bringing all three uses together. Considering the Council's schedule, this will probably be done in September.
2. 2040 Comprehensive Plan Update—Cultivate Hopkins
The Council endorsed formation of an advisory committee, and the first meeting will be this Thursday. There were more applicants than would be manageable, so staff had to select members, trying to make the group demographically and geographically diverse and also considering owners vs. renters and gender. Still looking to fill demographic that has historic perspective (older generation). Approximately 1/3 of the group is familiar with city processes (2 Council members, 3 P&Z commissioners) and some with Citizens Academy experience or who have been otherwise engaged. The agenda for the first meeting is: (1) Comp Plan 101; (2) U of M professor on long-range planning issues; and, (3) consultants with summary of engagement and demographics profiles of city and how they fit together. The first meeting will “set the table” for subsequent meetings and try to mix in fun and conversation. Meeting times will be discussed and possibly adjusted at the first meeting, but are anticipated to be 5 to 8 meetings on Thursdays over the next 8 months from approximately 5:30 to 7:30 p.m.

Chairman Hunke expressed the Commission's gratitude to outgoing Commissioner Gary Newhouse for serving on the Commission and giving his time, viewpoints and dedication to City. He wished him good luck in his next endeavor.

ADJOURN

Commissioner McNeil moved, Commissioner Hanneman seconded, to adjourn the meeting. The motion was approved unanimously. The meeting adjourned at 8:16 p.m.

Respectfully submitted,

Shannon Smith



MEMO

To: Planning Commission Chair and Members

From: Kurt Howard, Planning and Economic Development Intern

Date: August 22, 2017

Subject: Update on SolSmart Program Application

Proposed Action – Review requirements from SolSmart program application and discuss City staff's progress in pursuing designation.

Overview

The City's progress toward achieving SolSmart designation is documented within the attached summary of SolSmart designation criteria. The City's goal is to achieve, at minimum, the silver designation status. Significant progress toward this goal has already been claimed and submitted for review by SolSmart advisors. The remaining actions required for silver designation appear to be reasonably manageable.

Chief among the remaining required actions is the requirement to allow solar-by-right as accessory use in all major zones and implement any zoning ordinance adjustments identified through zoning review. Staff is actively working towards satisfying this requirement by drafting an alternative energy ordinance. Although the requirements of the SolSmart program focus specifically on solar energy, staff's vision for a more comprehensive alternative energy ordinance would extend beyond solar energy resources to include wind, geothermal and methane gas collection energy resources as well. Staff is reviewing existing examples of such ordinances from communities across the state, as well as receiving technical assistance from SolSmart advisors.

The production of an online checklist detailing the steps of Hopkins' solar permitting process is another significant required action. Planning staff is in the process of coordinating with the Building Inspections department to produce such a checklist. An example of the City of Brooklyn Center's online checklist for their solar energy permitting process is attached.

During the meeting, staff will update the Commission on staff's progress toward achieving SolSmart designation and take comments and questions from the Commission.

Attachments

- Criteria for Achieving SolSmart Bronze, Silver and Gold Designation Status with Progress Updates Included.
- Example of City of Brooklyn Center's Online Checklist for Solar Energy Permitting Process.

SolSmart Designation Criteria

Bronze

- Provide Solar Statement. **(Complete)**
- Create online checklist for solar permitting process. **(In progress)**
- Review zoning requirements and remove restrictions. **(Complete)**
- Earn 20 of 130 possible points in Permitting category. **(Claimed 25/130)**
- Earn 20 of 95 possible points in Planning, Zoning and Development category. **(Claimed 15/95)**
- Earn 20 of 620 possible points across six Special Focus Categories. **(Claimed 175/620)**

Silver

- Achieve bronze designation.
- Allow solar-by-right as accessory use in all major zones and implement any zoning ordinance adjustments identified through zoning review **(In progress)**.
- Provide cross-training of inspection and permitting staff on solar PV via in-person or online resources **(Claimed)**.
- Earn 100 of 820 possible points overall from actions taken in any combination of categories **(Claimed 215/820)**.

Gold

- Achieve silver designation.
- Provide streamlined permitting pathway for small PV systems with no more than 3-day turn-around.
- Earn 200 points overall from actions taken in any combination of categories **(Claimed 215/820)**.

***Actions marked as “claimed” are actions that have been submitted to SolSmart officials for review.**



City of Brooklyn Center

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RESIDENTIAL SOLAR ELECTRICAL SYSTEM- PERMIT SUPPLEMENTAL

Before approval and issuance of permit(s) for Solar Panel/Photovoltaic systems, a building permit application must be submitted along with all information requested including the information in this permit supplemental.

REQUIRED DOCUMENTS. (DETAILS OF SUBMITTALS ARE PROVIDED IN THIS SUPPLEMENT.)

- 1. Building Permit Application.
2. Electrical Permit Application (may be submitted prior to construction).
3. Site Plan.
4. Construction drawings including elevations. (Provide roof load and hardware uplift calculations.)
5. Manufacturer specifications.
6. Photos showing the condition of the roof.
7. If required, study from licensed Engineer.
8. A drawing showing the layout of the solar panels on the roof. If there are tracks, a separate drawing showing the layout of the tracks.

I. SITE AND CONTACT INFORMATION

Site Address Date of Application

Property Owner Name

Contractor Information

Company Name

Address

City State Zip Code

Company Phone License No.

Contact Person Email

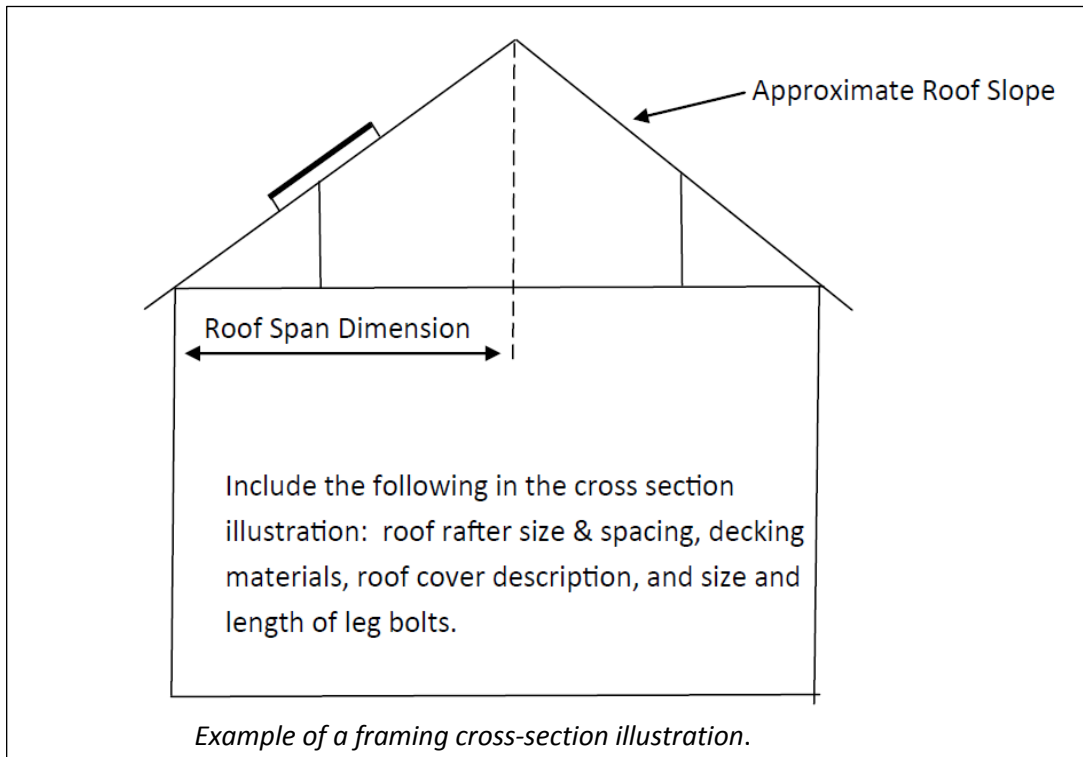
II. SOLAR SYSTEM INFORMATION

- 1. Provide the name brand and model of the solar panels.
2. What is the system's Kilowatt rating (DC)?
3. Type of System: Inter-tie Stand Alone
4. Does the system include battery backup or an Uninterrupted Power Supply (UPS)? Yes No
If yes, provide the number, size and location of the batteries.
5. If roof mounted, identify type of roof. Flat Roof Sloped Roof Pitch
6. Describe roofing materials, condition of roof and approximate age (shingles, tile, metal, ballasted, membrane).

7. Solar panels may not be allowed on existing roofs with two layers of shingles. Please indicate the number of roofing layers on existing roof. _____
8. Provide calculations that show the hardware used to secure the panels are able to handle the manufacture uplift values.
9. If staked to the ground, submit staking and grounding information.

III. REQUIRED DRAWINGS AND PLANS FOR RESIDENTIAL SOLAR ELECTRIC SYSTEM

Provide construction drawings that include a building section detail and complete notation of method of fastening equipment to the roof of the subject property, including the following details. Required drawings must be scaled, dimensioned and legible.



1. Cross section that identifies rafter size, spacing and span dimension and approximate roof slope. (See example above.)
2. Identify style, diameter, and length of embedment of bolts (i.e. 5/16 inch lags with minimum 3 inch embedment into framing, blocking or bracing).
Construction drawings included?

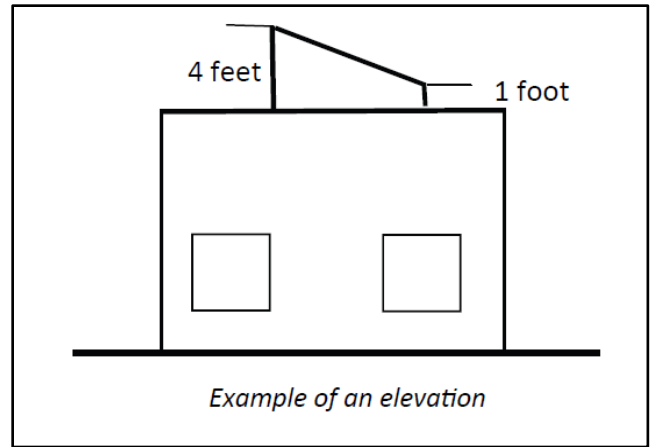
Construction drawings included?

Yes No

3. Provide manufacturer specification materials for all equipment, fasteners, etc.
4. Provide an **elevation** of the structure indicating the appearance of the proposed solar installation. Note the finished height of the system above the roof or, if ground - mounted, above the ground.

a. Elevation drawing included?

Yes No



5. Provide a **site plan** indicating the buildings and features of the property. The site plan must show property line locations, approximate location of all structures, the location(s) of the panel installations, setback from property lines, the main service location, and, if applicable, the solar easement across adjoining properties. For roof-mounted systems identify the setback dimension from the peak and from all edges of the roof. An on-site inspection may be required. Property line setbacks must be verified by the owner or contractor.

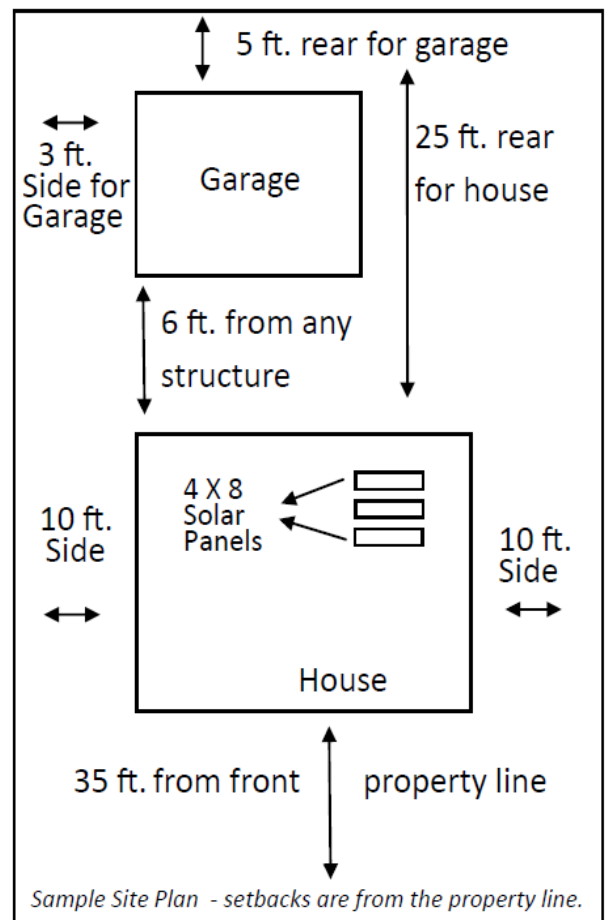
a. Site plan included? Yes No

6. Is the equipment to be flush mounted to the roof mounted such that the collector surface is parallel to the roof?

Yes No

7. The minimum structural threshold for installing a flush-mounted PV system is a roof structure with at least 2 inch x 4 inch rafters no more than 24 inches on-center spacing. Does the roof structure use 2 inch x 4 inch or larger rafters, spaced no wider than 24 inches on center?

Yes No



8. For roof installations, roof decking and structural supports should all be in good condition without visible roof sag/deflection. If the roof has more than one layer of roof coverings or is in poor condition, it may be required to be replaced prior to installation of solar panels. Is the roof structure in good condition, having no visible sag, cracking or splintering of rafters, or other potential structural defect?

Yes No

- a. If roof structure is accessible, please provide a photo showing the condition of the roof. If roof structure is not accessible, please provide an exterior photo, side view, of the roof.
Picture Provided? Yes No

IV. ADDITIONAL DOCUMENTATION

You may be required to provide additional documentation if the equipment is not flush mounted, the rafter space is more than 24 inches, or the roof is not in good condition.

1. If not a flush mount system, provide a side elevation identifying the pitch and height of the collector and mounting system relative to the roof.
2. Certain situations may require a structural engineer such as:
 - Commercial flat roof project (per Minnesota State Statute 326.02).
 - Residential flat roof that is raised above the roof system with no support below.
 - The proposed system is designed above the structure and will endure additional loads such as wind pressure and snow load.
 - The structural system is in poor condition or has damaged areas.
 - The structure is built into grade or a horizontal slope. (Soil loads may apply.)
 - There may be additional water pressure when located to a pond or pool.
3. If a study or statement is required from a Minnesota licensed/certified structural engineer, approval can come in the following forms:
 - a. Construction plans denoting the roof structure and any modifications to the structure, as well as the method of installation of solar collector on the subject property.
 - b. Letter from engineer accomplishing the same as above if the engineer feels that letter format will provide the necessary information.



MEMO

To: Planning Commission Chair and Members
From: Jason Lindahl, AICP
Date: August 22, 2017
Subject: Sign Ordinance Legal Review

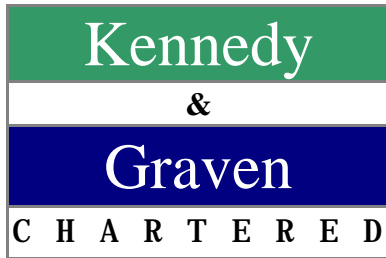
Proposed Action – Discuss City Attorney’s review of the sign ordinance.

Overview

As part of the City’s update of the sign regulations, staff asked the City Attorney to review the ordinance to determine compliance with constitutional law principles and recent case law. The City Attorney’s legal analysis focused on content neutrality and staff discretion and generally finds the current sign ordinance in compliance with the law. The City Attorney does offer some recommendations related to abandoned signs and removal of unlawful signs. During the meeting, staff will review the City Attorney’s findings and recommendations and take comments from the Commission.

Attachment

Assistant City Attorney Sign Ordinance Review Memo, August 4, 2017



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MEMORANDUM

Date: August 4, 2017
To: Jason Lindahl, Hopkins City Planner
From: David T. Anderson, Assistant City Attorney
Re: City of Hopkins – Sign Ordinance Review Comments

I. Introduction

This memorandum provides comments related to my review of the Hopkins Sign Ordinance, codified at section 570 of the Hopkins City Code (hereinafter, the “Ordinance”). Per your request, I have reviewed the Ordinance to determine its compliance with constitutional law principles and, more specifically, recent court decisions interpreting the First Amendment. My focus was twofold, first to identify any significant First Amendment issues which may exist, and second to determine the sufficiency of the City’s enforcement mechanisms contained within the Ordinance. This memorandum does not opine as to the appropriateness of the Ordinance’s actual sign regulations from a planning perspective (non-legal issues), as those matters are left to the discretion of the City’s planning staff and governing body.

II. Review

From a legal perspective, there are generally two distinct areas of specialized concern related to local sign ordinances. The first is content neutrality, and the second is staff discretion. Each issue, as it relates to the Ordinance, is addressed separately below.

a) Content Neutrality

The general rule for sign regulations is that if a government agent must read the content on the sign (i.e. the message) in order to apply a local regulation, the regulation itself is content-based and likely to raise First Amendment concerns. Therefore, rather than regulating based on content, cities should regulate signs based on physical attributes, such as size, location, quantity, illumination, and other physical characteristics that do not require reference to the actual message contained on signs.

With respect to content neutrality, the Ordinance is extremely content neutral. There are no readily identifiable content-based regulations that cause significant concern. There is, however, one rather minor content-based provision contained within the definition of the term “abandoned sign” at section 570.05, subd. 2. Although it is not egregious, determining whether a sign is abandoned may require City staff to reference the content to determine if it “pertains to a time, event or purpose which no longer applies....” Interestingly, other than defining what an abandoned sign is, the Ordinance does not further regulate abandoned signs in any way, which was likely unintentional. Therefore, I suggest either removing the definition of abandoned sign altogether, or, if you intend to prohibit or further regulate abandoned signs, which is probably a good idea, I suggest slightly tweaking the definition to read as follows:

Any sign and/or its supporting sign structure which has been removed or whose display surface remains blank for a period of one (1) year or more. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

Additionally, while the Ordinance does expressly impose regulations based on whether a sign is “on-premise” or off-premise,” current case law suggests that such regulations do not violate the First Amendment. While this type of regulation is content-based and, thus, more vulnerable to legal challenges, distinguishing between on-premise and off-premise signs is something that courts have generally upheld as a valid content-based sign regulation.

Overall, it appears the Ordinance was carefully drafted to avoid any content-based regulations. Furthermore, the Ordinance contains a well-written message-substitution clause (section 570.45) and severability clause (section 570.03), both of which may help avoid issues when dealing with sign challenges. Other than the recommendation above regarding abandoned signs, I do not suggest any other modifications in terms of content-neutrality.

b) Staff Discretion

The second area of sign regulation that commonly leads to legal challenges relates to the amount of discretion afforded to staff members in charge of issuing permits. In other words, how much

leeway does City staff have to deny a sign permit application? Strictly speaking, if all of the requirements of the code are met (e.g., the proposed sign meets physical, lighting, placement specifications, etc.), a sign permit should be granted. After merely applying the Ordinance's regulations, staff should have no additional discretion to deny a permit.

In this respect, the Ordinance's permitting scheme appears generally fine. It does not seem to afford City staff with unbridled discretion to deny permits, and it further makes clear that the content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. It may be useful, although not necessary, to expressly clarify in the Ordinance that if a proposed sign meets the various requirements, a permit *shall* be issued.

c) Enforcement Mechanisms

The Ordinance's enforcement section appears relatively thin. Section 570.15 provides that a violation of the Ordinance is a misdemeanor, authorizing the City to enforce the Ordinance by way of criminal charges. However, there does not appear to be an express mechanism or procedure in place for the removal of unlawful signs. The City should have a clear way to remove signs that violate the Ordinance.

There are different ways to implement procedures that might allow sign removal, including deeming unlawful signs a public nuisance (subject to abatement under section 615 of the City Code), or merely authorizing City staff, following notice, to remove unlawful signs and hold them for a period of time for pickup.

Finally, the Ordinance might benefit from a provision that addresses signs that are poorly maintained, unsightly, or in disrepair, but otherwise meet the City's requirements. Put differently, the City should have a way to intervene when a sign that is entirely lawful under the Ordinance is poorly maintained by its owner or operator. Under these circumstances, the City should have the ability to require that the owner make necessary repairs or risk losing the sign. An example of this type of provision is below:

Signs which may be or may hereafter become rotted, unsafe or unsightly shall be repaired or removed by the owner or lessee of the property upon which the sign stands upon reasonable notice by the city. The owner, lessee or manager of any sign that contacts the ground and the owner of the land on which the same is located shall keep grass, weeds and other growth cut and shall remove all debris and rubbish from the area beneath the sign. If the owner, lessee or manager of the property fails to act in accordance with this paragraph, such failure to act shall constitute a public nuisance, and the city may seek injunctive relief through a motion for summary enforcement, or obtain an administrative search and seizure warrant for removal of the sign in question. All costs incurred for removal may be charged to the owner of the sign and/or property owner and if unpaid, certified to the county auditor as a lien against the property on which the sign was located.

By amending the Ordinance to include the types of provisions suggested above, City staff will have more flexibility when it comes to enforcing its sign regulations.

III. Conclusion

Other than the recommendations contained herein, the Ordinance appears relatively well-written. If you have any questions regarding this information or if you would like additional information, please contact me. In the event that the City would like to amend the Ordinance based on any of these comments, I would be happy to either draft the amendments or otherwise be involved in any way that might be helpful.

DTA:jms