

MINUTES

Independence Planning Commission/Board of Zoning Appeals Tuesday, February 6, 2018 Veterans Room Memorial Hall 5:30 p.m.

Call to Order

Planning Commissioners Present

Andy McLenon*, Jim Hardy, Barbara Emert, Mary Jo Dancer, Steve McBride, John Koschin, Brian Beecham, Nick McCollam*

Planning Commissioners Absent

Philipp Umlauf

*Outside Appointments are not on the Board of Zoning Appeals

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator

Visitors Present

None

a. Consider approving minutes of the November 7, 2017 meeting.

Barb Emert made a motion to approve the minutes of the November 7, 2017 Planning Commission/Board of Zoning Appeals minutes, seconded by Steve McBride. The motion carried 8-0.

Planning Commission

b. Welcome new member John Koschin.

John Koschin was welcomed as a new member.

c. Reorganization

1. Election of Chair – Andy McLenon nominated Philip Umlauf, and Steve McBride nominated Nick McCollam. Barb Emert moved to cease nominations. There was one vote in favor of Philip Umlauf continuing as Chair for the next year by Nick McCollam. There was seven votes in favor of Nick McCollam which passed 7-1.
2. Election of Vice Chair – Steve McBride nominated current Vice Chair Mary Jo Meier. Barb Emert seconded. Andy McLenon moved to close nominations. Barb Emert moved to accept that nomination by acclamation. Motion carried 8-0.
3. Election of Secretary – Steve McBride nominated Andy McLenon, Barb seconded. The motion carried 8-0.

- d. **Consider text amendments to the zoning code; specifically, Article VIII, Sign Regulations, including but not limited to 802.6 (District C-3, central commercial district), and 803.6 (Attention-attracting devices).**

Staff provided the following staff report to the board in written form prior to the meeting:

802.6 (District C-3, central commercial district)

City staff has received concerns from downtown business owners regarding the sign regulations in the downtown area (C-3, central commercial district) as being too strict.

When considering possible text amendments to any sign regulations it is important to consider the intent and purpose of sign regulations as provided for in Section 801.2:

801.2. Intent and purpose: Regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities in the City of Independence without difficulty and confusion, to encourage the general attractiveness of the community, and to protect property values therein. Accordingly, it is the intention of this ordinance to establish regulations governing the display of signs which will:

- a. Promote and protect the public health, safety, comfort, morals and convenience;
- b. Enhance the economy and the business and industry of the city by promoting the reasonable, orderly, and effective display of signs, and thereby encourage increased communication with the public;
- c. Restrict signs and lights which overload the public's capacity to receive information or which increase the probability of traffic congestion and accidents by distracting attention or obstructing vision;
- d. Reduce conflict among signs and light between public and private information systems; and
- e. Promote signs which are compatible with their surroundings, are appropriate to the type of activity to which they pertain, and are expressive of the identity of proprietors and other persons displaying signs.

The C-3 district regulations are provided for in section 802.6 as follows:

802.6. District C-3, central commercial district:

- a. *Permitted signs:*
 1. *[Generally:]* Signs permitted in the C-3 district shall be illuminated signs, nonilluminated signs, marquee signs, temporary signs, wall signs and projecting signs with the exception that no sign shall be mounted, painted or affixed to any surface extending above the transom or storefront beam whichever is higher.
 2. *Wall signs:* One sign per face of building not to exceed 50 square feet or five percent of the total area, whichever is smaller.
 3. *Corner buildings:* One sign equal to standards above for each wall.
 4. *Multiuse signs:* Total sign area for all uses not to exceed above standards.
 5. *[Signs hanging from awnings or mounted to storefronts:]* Signs hanging from awnings or mounted to storefronts may not exceed five square feet per face.

6. *[Freestanding buildings:]* Freestanding buildings shall be permitted one freestanding sign not to exceed 80 square feet per face or 160 square feet total of all faces in the sign area. The top of the sign shall not be higher than 25 feet above ground level.
7. *Historical restorations or reproductions:* Historically significant or reproduced signs shall be referred to the Main Street Committee for recommendation to the city commission who may authorize such installation.
8. *[Rear wall signs:]* One rear wall mounted sign not to exceed 18 inches by 36 inches for business identification.
- b. *[Poster panels and billboards:]* Poster panels and billboards shall not be permitted in the C-3 zone.
- c. *Signs on awnings, canopies, and marquees:*
 1. There shall not be more than one sign exceeding an aggregate gross surface area of such awning, canopy or marquee of ten percent of the gross area for each principal building.
 2. The gross surface area of a sign shall not exceed 50 percent of the gross surface area of the awning, canopy or marquee to which the sign is fixed.
- d. *General standards:*
 1. Any awning, canopy, marquee or projecting sign shall not be less than seven feet above the surface of the grade of any street or sidewalk.
 2. Awnings and canopies shall be no closer than four feet from the public street curb and in no case extend more than 12 feet from the property line.
 3. Marquees shall be no closer than two feet from the property line.

I am also including the definitions of signs in the zoning code as they may also relate to this review:

Sign: Any words, numerals, figures, devices, designs, or trademarks by which information is made known to the public outside a building and including, but not limited to, the following:

1. *Detached sign:* Any sign located on the ground or on a structure located on the ground and not attached to a building. Multiple signs on one detached structure not attached to a building shall be considered one sign.
2. *Electronic sign:*
 - a. *LED/Reader Board (Electronic Changeable Copy) Sign:* A sign in which the copy is changed electronically, uses changing lights to form the message or text form wherein the sequence of messages and rate of change is electronically programmed and modified.
 - b. *Electronic Display Center (Video Display Sign):* A sign that displays an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screens, LED screens, video boards and holographic displays.
3. *Illuminated sign:* Any sign which has characters, letters, figures, designs, or outlines illuminated directly, such as spotlights, or by electric lights or luminous tubes as a part of the sign proper.
4. *Nonilluminated sign:* Any sign which is lighted by natural sunlight only.
5. *Marquee sign:* Any sign attached flat against a marquee.

6. *Portable sign:* A sign not permanently affixed to the ground or to a building or structure, such as signs mounted on vehicles, wheels, or any type of support not permanently attached to a structure or to the ground.
7. *Poster panel or billboard:* An illustration of approximate dimension of 12 feet by 24 feet or multiples thereof mounted on a semipermanent structure and depicting information not directly related to the property upon which it is placed.
8. *Projecting sign:* Any sign extending more than one foot from the face of the building to which it is attached. A time and temperature instrument mounted on the face of the building shall be included in the definition.
9. *Roof sign:* Any sign erected, constructed and maintained wholly upon or over the roof of a building and having the roof as a principal means of support.
10. *Temporary sign:* Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames, intended to be displayed for a short period of time, not to exceed 30 days.
11. *Wall sign:* Any sign attached to and erected parallel to and within one foot of the face or wall of a building, including signs painted on the walls of buildings.

Sign area: That area within a line including the outer extremities of all letters, figures, characters and delineations or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included as a part of the sign area.

In addition to the Zoning Code regulations, signs in the Downtown Historic District must also be reviewed by the Independence Historical Preservation and Resource Commission (IHPRC). IHPRC is a Certified Local Government (CLG), which basically means the review of sign, building or demolition permits in the Downtown Historic District can be performed by the IHPRC rather than the State Historic Preservation Officer (SHPO). The IHPRC are required to consider certain criteria and guidelines. City code relating the IHPRC can be found at this link:

https://library.municode.com/ks/independence/codes/code_of_ordinances?nodeId=PTIICO_CH50INHIPRECO

Please note, the code creating the IHPRC is not under the Zoning Code, therefore, the Planning Commission does not have authority to recommend text amendments to City code relating to the IHPRC.

Any modifications in the C-3 Central Business District Sign Regulations should encourage the following attributes:

1. An attractive downtown that enables shoppers to easily locate goods and services without confusion;
2. Allow proprietors to express their identity; and
3. Promote the preservation of the Downtown Historic District.

In consideration of the above, City staff believes it is important to hear from the downtown property and business owners, Main Street, the Chamber and IHPRC. Therefore, it is staff's recommendation to adjourn the portion of the public hearing regarding any text amendments to Section 802.6 (District C-3, central commercial district) to April 3, 2018 to allow for additional feedback from these groups.

Brian Beecham and Andy McLennon both commented that it would be good to update downtown, times are changing and they would like to hear from property owners. It was also discussed that this might be a good topic for First Friday. A motion was made by Barbara Emert, seconded by Brian Beecham to adjourn this portion of the hearing to April 3, 2018 to allow feedback from Main Street working with the IHPRC and downtown property owners. The motion carried 8-0.

803.6 (Attention-attracting devices)

At your September 5, 2017 Planning Commission meeting the following text amendment was recommended to the City Commission:

803.6 Attention – Attracting Devices and Electronic Signs:

- a. Any attention-attracting device, as defined in Section 403.0, Definitions, of this ordinance, is hereby prohibited from use except as hereinafter provided.
- b. Attention-attracting devices and electronic signs as defined in Section 403.0, Definitions, shall be permitted in any zoning district for non-commercial purposes if such signs designate time, date, temperature, community service and/or other similar information regarding a non-profit or charitable organization, receive approval of the City Commission, and if the electronic signs follow all requirements and standards designated for their use as set forth in Section 802.5.

The City Commission considered this recommendation at their September 28, 2017 meeting, at which time Ordinance 4252 was adopted with the following amended language:

803.6. Attention-Attracting Devices and Electronic Signs:

- a. Any attention-attracting device, as defined in Section 403.0, is hereby prohibited from use except as hereinafter provided.
- b. Attention-attracting devices and electronic signs, as defined in Section 403. 0, shall be permitted in any zoning district for noncommercial purposes if:
 1. Such devices or signs designate time, date, temperature, community service and/ or other similar information regarding a non-profit or charitable organization; and
 2. Receive approval of the City Commission; and
 3. Comply with and follow all requirements and standards designated for their use as set forth in Section 802.5.

It has come to staff's attention that the highlighted text should have read Section 802.5.c to be clear that it is referring specifically to electronic signs. City staff recommends the Planning Commission recommend approval of a text amendment by the City Commission as follows:

803.6. Attention-Attracting Devices and Electronic Signs:

- a. Any attention-attracting device, as defined in Section 403.0, is hereby prohibited from use except as hereinafter provided.
- b. Attention-attracting devices and electronic signs, as defined in Section 403. 0, shall be permitted in any zoning district for noncommercial purposes if:

1. Such devices or signs designate time, date, temperature, community service and/or other similar information regarding a non-profit or charitable organization; and
2. Receive approval of the City Commission; and
3. Comply with and follow all requirements and standards designated for their use as set forth in Section 802.5.c.

A motion was made by Steve McBride to modify Section 803.6.b.3. to "*Comply with and follow all requirement and standards designated for their use as set forth in Section 802.5.c.*" Seconded by Andy McLenon. The motion passed 8-0.

e. Discuss upcoming items.

Staff indicated that the orientation originally planned for this meeting had been postponed to March 6, 2018 as the City Attorney was not available for the February meeting. City staff also advised that the Comprehensive Plan would be on the next agenda for annual review.

Staff reviewed several items that the City Commission would like the Planning Commission to review.

Andy McLenon moved, seconded by Nick McCollam to prioritize the items as follows:

1. Downtown Signage.
2. Attention-Attracting Devices and Electronic Signs.
3. Food trucks.
4. Recreational vehicles, 5th wheels and travel trailers that are occupied.
5. Tiny houses.
6. Gravel parking lots.

Motion carried 8-0.

Board of Zoning Appeals

f. Consider status update for 2016/VAR/09 relating to a variance from the hard surface requirement in an O & P zoned district at 900 W. Myrtle.

The status was reviewed and staff indicated that the location is still temporary at this time. A motion was made by John Koschin to review the status in one year, seconded by Barb Emert. The motion carried 6-0.

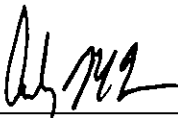
g. Upcoming public hearing on March 6, 2018 for a variance request from Truth Tabernacle UPC, Inc. regarding an electronic church sign in a residential zoned district at 1825 North 10th Street.

Staff advised the Board of Zoning Appeals that a hearing had been scheduled for this variance request.

Adjournment

The meeting was adjourned with a motion by Andy McLenon, seconded by Barb Emert. The motion carried 6-0.



Nick McCollam, Chair

Andy McLenon, Secretary