

ROY CITY PLANNING COMMISSION

October 26, 2010

Minutes of the Roy City Planning Commission Meeting held in the City Council Room of the Roy City Municipal Building on October 26, 2010, at 6:00 p.m.

The meeting was a regularly scheduled meeting designated by resolution. Notice of the meeting was provided to the *Standard Examiner* at least 24 hours in advance. A copy of the agenda was posted.

The following members were in attendance:

Lee Holt, Chairman
Blake Hamilton
Gennie Kirch
Bill Merx
Roy Watts
Rhett Zito

Tony Reynolds, Community and
Economic Development Director
Jared Hall, Planner
Michelle Drago, Secretary

Excused: Tom Stonehocker

Others present were: Marge Becraft; Allan Karras; Missy Powell; D. L. Thurman; Cameron Grover; and Jordan Furhman.

Pledge of Allegiance: Bill Merx

1. APPROVAL OF SEPTEMBER 28, 2010, MINUTES

Commissioner Watts moved to approve the minutes of September 28, 2010, as written. Commissioner Kirch seconded the motion. Commission members Holt, Kirch, Merx, Watts, and Zito voted "aye." The motion carried.

Commissioner Hamilton arrived at 6:02 p.m.

2. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 17 OF THE ZONING ORDINANCE REGARDING ALLOWANCES FOR DOMESTIC LIVESTOCK AND FOWL IN SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS

Commissioner Kirch moved to open the public hearing at 6:02 p.m. Commissioner Merx seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Watts, and Zito voted "aye." The motion carried.

Jared Hall stated that in response to a request from a citizen, the City Council had asked that the planning staff and Planning Commission look at expanding the keeping of bees

into single-family residential zones. Currently the only zone in Roy City that allowed domestic fowl and livestock was the RE-20 Zone. Bees, or apiaries, were part of that category. Most residential land in Roy City was zoned R-1-6, R-1-7, R-1-8, R-1-10, and R-1-15. On September 14th, the Planning Commission held a discussion regarding the possibility of expanding bees into single-family residential zones. In response to that discussion, the staff scheduled the public hearing and prepared draft language for consideration and possible recommendation to the City Council. If bee keeping was to be included in the single-family residential zones, the staff recommended that the following regulations be made conditions of that allowance:

1. **Conditional Use.** The expanded allowance should only be allowed as a conditional use in single-family zones.
2. **Lot Area.** A minimum of 10,000 square feet should be required for one (1) hive. The area limitation was warranted by the nature of the proposed use, and the potential for neighborhood impacts.
3. **Hive.** The expanded use be limited to one (1) hive, and that the hive stack not exceed five (5) boxes.
4. **Location Regulations.** The hive must be kept a minimum of 10 feet from any property line and a minimum of 30 feet from any dwelling on any adjoining lot. The minimum setback recommendation was intended to minimize impacts on neighboring properties.
5. **Secured Rear Yard.** The location of the hive should be restricted to the defined "rear yard," and the rear yard should be secured with 6-foot fencing.
6. **State Registration.** That the applicant register as a beekeeper with the Utah State Department of Agriculture.
7. **Water Provision.** The hive must be supplied with adequate accessible fresh water continuously between March 1 and October 31 of each year. The water source must be located to minimize the nuisance created by bees seeking water on neighboring property.
8. **General Placement.** The hive must be located on the property in such a way that the general flight pattern of the bees was in a direction that would minimize contact with humans and domestic animals on adjoining properties, or to areas of public access.

Mr. Hall said that the proposed language would be added to the Supplementary Development Standards in Chapter 11 of the Zoning Ordinance rather than to the "Domestic Livestock and Fowl" category in Table 17-2 of Chapter 17. The City had received a letter from Brad and Karla Christiansen opposing the proposed amendment (see attached copy).

Commissioner Merx asked if the fencing required for a secure yard had to be opaque. Mr. Hall said it had to be 6-feet in height, but it didn't have to be opaque.

Commissioner Zito asked if chain link fencing could alter the flight pattern of a bee if a bee could fly right through it. Mr. Hall said the literature he had read said bees could be

influenced by a 6-foot fence if it was placed close enough to the hive. He agreed that chain link fencing might not work.

Jared Hall felt that the regulations for such an expansion of a traditionally limited use should be maybe a little onerous. This type of use should not be available to just anyone owning property in Roy City. If a hive was not maintained, it would be a problem for the neighbors.

Commissioner Merx did not feel the State's requirements were stringent enough.

Commissioner Hamilton asked for the highest estimate of bees in a five-box hive. Mr. Hall said it would be 12,000 to 15,000 bees.

Commissioner Merx asked how much of an area 15,000 bees could cover. Mr. Hall said bees could range up to 6 miles from the hive.

Vice Chairman Holt asked who would monitor the water effort. Mr. Hall said the staff would probably respond to complaints the way they would in other cases.

Commissioner Zito asked how much demand there was for this use. Jared Hall said the City had received one formal request for an ordinance amendment. The staff usually responded to a few calls a year about bees.

Commissioner Hamilton asked how many other local municipalities had bee keeping in their ordinances. Mr. Hall said most municipalities allowed bee keeping in agricultural zones, similar to Roy City's RE-20 Zone. Salt Lake City was currently allowing bees in single-family residential zones. Commissioner Hamilton asked if the staff had heard anything from Salt Lake. Mr. Hall said that they had not.

Vice Chairman Holt asked if the petitioner in this case had a lot which was over 10,000 square feet. Mr. Hall said she did.

Commissioner Merx asked if there was anything in the ordinance to prevent someone from making arrangements to keep hives on an RE-20 lot that they did not own. Mr. Hall said there was not. Commissioner Merx asked how many hives could be kept on an RE-20 lot. Mr. Hall said a typical RE-20 lot could have up to five hives.

Commissioner Kirch asked if there had been any problems with bees in the RE -20 Zone. Mr. Hall said to his knowledge there had not been.

Commissioner Zito asked if the State provided a kit to someone who wanted to keep bees. Mr. Hall said the State would provide reading material and could conduct periodic inspections, but it did not provide a starter kit.

Commissioner Kirch asked if any language had been proposed about how to handle complaints about the hives. Was there a nuisance provision? Jared Hall said such a

complaint would be considered a zoning violation of their conditional use permit. If complaints were received and verified as valid, the owner could be asked to appear before the Planning Commission and City Council for possible revocation of their conditional use permit.

Vice Chairman Holt opened the floor for public comments.

Sara Martineau, 2591 West 5225 South, stated that she had asked that the Zoning Ordinance be amended. She wanted to have the option of keeping bees. Both of her brothers had bees. She quoted parts of a letter written to the City (see attached copy). Bees were an important part of the ecosystem. Due to colony collapse disorder, there were not many bees in residential areas. She had received signatures from everyone on her street in support of her request to keep bees. Her neighbors also expressed concern about the lack of bees. In reviewing the staff report and Planning Commission minutes from last month, she was concerned that the City would take a political feel good stance on this issue. City officials would say, "Yes, you can keep bees." However, they would make the ordinance so restrictive and impracticable that very few could meet the requirements. She understood the need for restrictions, but they needed to be based on facts and common sense rather than rumors. As a voter, she wanted City representatives basing laws on facts, not personal politics, exaggeration, or gossip. Some of the suggestions proposed by the staff were okay, such as those relating to hive size, general placement, water provision, and State registration. She disagreed with the 10,000 foot requirement. A half-acre lot could have five hives, which was only 4,356 square feet per hive. The square footage per hive was inconsistent. She felt it was expensive overkill to require that the entire rear yard be fenced with a 6-foot fence. The location regulations of 10 feet from a property line and 30 feet from any adjoining dwelling were impractical. They would place a hive in the middle of the usable yard area. Bees needed to be in a secluded part of the yard away from the traffic and noise. Most people didn't congregate near the backs of their yards. Putting footage restrictions in place that would force a hive into the center of a yard was saying, "Well, if someone wants it bad enough, they will make it happen." It was merely a politically convoluted way of saying, "We really don't want you to have a beehive anyway." Bees only needed an 8'x8' area. If a hive was placed inside such a fenced area, it would alter the bees' flight pattern. The fencing couldn't be chain link because bees would fly right through it. It had to be a barrier or dense shrubbery. Ms. Martineau said that keeping bees would never be as popular as keeping dogs, which was why there were only about 200 formal beekeepers in the state. Concern about the City being overrun with beehives was illogical. Any regulations based on such concern were fallacious. A number of urban areas allowed beehives, such as Denver, Minneapolis, Seattle, Los Angeles, Chicago, and Washington, D.C. New York City changed its ordinances last spring, and they weren't concerned about 10,000 square foot lots. Most people in heavy urban areas didn't even have a yard. To universally imply that every place had restrictions similar to those of Roy was disingenuous. She realized that some people were highly allergic to bee stings. She didn't feel that was a reason in and of itself to prohibit beekeeping. Her husband was allergic to hornet stings. Hornets were naturally aggressive; honeybees were not. An area with healthy beehives would naturally have fewer hornets. The traditional American way of looking at an issue was it was better to err

on the side of freedom. There were not enough laws under the sun to keep every citizen happy or to protect mankind from its own stupidity. She asked the Planning Commission to consider passing an amendment to allow beehives in single-family residential areas based on fact and common sense.

Commissioner Hamilton asked how big a hive was. Ms. Martineau said one box was usually 2'x3'. Commissioner Hamilton expressed concern about having the 8'x8' near where children congregated and could get stung. Ms. Martineau didn't feel a hive would be a problem if it was located outside of the play area, which is why the location restrictions proposed by the staff would not work.

Commissioner Hamilton said the proposed fencing was intended to alter the bees' flight pattern away from people; to protect them from the bees becoming a nuisance.

Commissioner Kirch stated that there appeared to be two different types of fencing. The rear yard needed to be secured with a fence that didn't have to be opaque. Ms. Martineau was suggesting that the hive itself needed to be secured with a fence that was opaque.

Sara Martineau felt the requirements for a 6-foot fence around the rear yard was overkill if the hive itself was secured with a fence.

Vice Chairman Holt asked about water. Sara Martineau said fresh water was important. If water wasn't provided, the bees would be forced to look for it elsewhere.

Commissioner Zito asked how large Ms. Martineau's brothers' properties were. Ms. Martineau said one brother lived in Hooper and had 1½ acres; the other lived in Clinton on half an acre.

Commissioner Merx asked if Ms. Martineau had a problem keeping her hives on an RE-20 lot other than her own. Ms. Martineau preferred to have her bees on her own property in order to make sure they were maintained properly. The further away the bees were, the less control she had.

Commissioner Merx asked how long it took a hive to split. Ms. Martineau said it could occur over a six week period in the spring.

Commissioner Hamilton asked if Ms. Martineau had copies of the ordinances from the urban areas she listed. Ms. Martineau said she had looked at the ordinances from New York City and Cleveland because they were readily available on the Internet. New York City's ordinance did not require a lot of space. Most of the requirements in both ordinances were about preventing the bees from becoming a nuisance and providing what the bees needed.

Commissioner Watts asked if a homeowner's insurance policy if someone who was very allergic was stung by the bees. Who would be liable if that became an issue?

Vice Chairman Holt stated that a homeowner's policy was about the risk of what happened on the property.

Commissioner Watts was not opposed to bees. They were pretty docile if a hive was located where it was protected.

Brad Christiansen, 3036 West 4375 South, stated that he had a lot of concerns. Most were based on the beekeepers themselves and how they cared for their hives. He spoke with a few beekeepers in Clinton and up in the valley. If a hive was not divided, the hive would swarm. How many hives could a neighborhood support? If bees couldn't find food, they could fly up to six miles. A lot of people were allergic to bees, which brought up liability. Would the City be liable if bees caused a problem? What would a homeowner do with the extra bees? Who would monitor the hives to make sure all the regulations were kept? He was also concerned about lot size. If a lot had to be 10,000 square feet and a hive had to be 10 feet from a property line and 30 feet from an adjoining home, there wasn't a lot of room for the hive. He felt a lot of questions needed to be answered before the Planning Commission could decide whether to amend the Zoning Ordinance.

D. L. Thurman, 3100 West, stated that he owned several properties throughout the City. He had noticed over the past few years that bees were disappearing.

Cameron Grover and Jordan Fuhrman, 5191 South 2825 West, felt that people should be allowed to have bees at their homes as long as they were contained.

Commissioner Merx moved to close the public hearing at 6:53 p.m. Commissioner Kirch seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Watts, and Zito voted "aye." The motion carried.

Commissioner Kirch felt this was a perplexing issue. Based on Jared Hall's research, bees were an acceptable use in many cities. The question was whether Roy City wanted to allow bees on properties with less than 20,000 square feet. If bees were allowed on smaller lots, the staff recommended that they be a conditional use. She felt a few things needed further research, such as the lot size requirement. She felt strongly about the fencing requirement. Any rear yard that contained a hobby like this needed to be fenced. The City had to create parameters. There were advantages and disadvantages to keeping bees. According to new research, bees were dying due to a combination of a virus and other factors. There was a need for more bees.

Commissioner Watts was concerned about fencing. It needed to be six feet. He wasn't comfortable with a fence height that kids could jump. If kids bumped a hive, they would be chased. He was also concerned about liability. He wasn't totally comfortable with the proposed amendment. The ordinance already allowed bees in RE-20 Zones.

Commissioner Merx asked if there was a fencing requirement in RE-20 Zones. Vice Chairman Holt said there was not.

Commissioner Merx stated that bees were not over populating the existing RE-20 lots. If someone in another zone wanted to have a hive and keep bees, they could make arrangements with the property owner of an RE-20 lot. If there were a large number of hives in all the RE-20 Zones, there would be enough bees. If there weren't enough places for people who wanted to have hives, then the City might look at changing the ordinance. He wasn't convinced there was a pressing need to amend the ordinance.

Commissioner Zito felt owners of RE-20 lots would like to have hives. It could affect property taxes. If the City chose to amend the Zoning Ordinance, he felt citizens should be required to register as beekeepers with both the State and the City.

Commissioner Kirch stated that unless a healthy colony was maintained, the bees would die and die very quickly. Maybe the City could look at one hive on any lot less than 20,000 square feet.

Vice Chairman Holt did not feel there was a need to gather more information. He concurred that the City had an RE-20 Zone that allowed bees. If something wasn't broke, don't fix it.

Commissioner Watts asked how many hives the City would get if the ordinance was amended.

Commissioner Hamilton understood that bees were important. However, he wasn't sure he had enough facts. He wanted to look at ordinances from other municipalities. He didn't want to create a problem for beekeepers or the City itself. He wasn't sure revoking a conditional use permit was a practical way to handle what would be more like a code compliance problem. He would like to know what was happening in Salt Lake. They had a new ordinance. How was it working? They were the only municipality in Utah that allowed bees in single-family residential zones.

Commissioner Merx pointed out that the staff had not recommended that the amendment be approved. It had recommended some conditions to apply if the Planning Commission chose to recommend that the Council amend the Zoning Ordinance. He wasn't convinced there was a need to press on.

Commissioner Kirch moved to table discussion regarding amending Chapter 17 of the Zoning Ordinance for two weeks and direct the staff to conduct further research regarding restrictions for urban areas, the dynamics of the Salt Lake ordinance, and constraints of suburban areas similar to the size of Roy. The motion died for lack of a second.

Jared Hall stated that he had copies of ordinances from several cities. Salt Lake's ordinance was touted by many as a sort of new model for livestock in urban areas. Many of staff's suggested conditions were taken from language in that ordinance. Most of the ordinances available related to bees in agricultural areas.

Tony Reynolds stated that there was a threshold question to consider. If the City was not going to entertain an amendment, there was not a need for the staff to conduct further research or prepare an ordinance amendment.

Commissioner Merx moved to recommend that the City Council deny the requested amendment to Chapter 17 of the Zoning Ordinance allowing domestic fowl and livestock in single-family residential zones, as the Planning Commission did not find that there was any need to amend the existing ordinance. Commissioner Hamilton seconded the motion. Commission members Hamilton, Holt, Merx, and Watts voted "aye." Commission members Kirch and Zito voted "nay." The motion carried.

3. PUBLIC HEARING TO CONSIDER AMENDMENTS TO SECTION 4-3-3 OF THE CITY CODE AND SECTION 1020 OF THE ZONING ORDINANCE REGARDING INSTALLATION AND MAINTENANCE REQUIREMENTS FOR LANDSCAPING ON RESIDENTIAL PROPERTIES

Commissioner Kirch moved to open the public hearing at 7:15 p.m. Commissioner Watts seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Watts, and Zito voted "aye." The motion carried.

Jared Hall stated that in order to amend the installation and maintenance requirements for landscaping of residential properties it was necessary to change Roy City Code Section 4-3-3 and Zoning Ordinance Section 1020.

Mr. Hall said Section 4-3-3 was a simple list of 'declared nuisances.' The list formed an essential part of the code compliance efforts of the City. By adding language regarding the maintenance of residential property landscaped areas, the City would be asking Code Compliance to enforce that standard in the same way it currently enforced the abatement of weeds, junk, and inoperable vehicles, etc. The proposed text amendment to 4-3-3-R replaced the current language to read, *"Any landscaping setback areas which lack appropriate turf or plat materials so as to cause excessive dust, allow the accumulation of debris, or cause significant depreciated values of adjacent or neighborhood properties."* The current language in "R" would be moved to a new "S."

The proposed text amendment to Section 1020 would add other required yard areas to the installation requirement language with a slightly longer time frame and add language requiring property maintenance to mirror the proposed language in 4-3-3. One issue discussed previously was the 'trigger' for the required installation. Currently, it was the issuance of a Certificate of Occupancy for new construction. Staff proposed that the maintenance requirement language be non-specific and include both new and existing properties. The proposed amendment to Section 1020 would read:

Section 1020 - Required Front Yard Landscaping in Residential Zones

- (1) Landscaping, such as but not limited to, grass, rocks, trees, shrubs, and ground cover is required to be installed in the front yard of all residential lots within one (1) year from issue of a Certificate of Occupancy. Landscaping is required to be installed in all other required yard areas of all residential lots within two (2) years from issuance of a Certificate of Occupancy.
- (2) Residential lots shall maintain all required landscaping in a health condition. Required landscaped yard areas shall not lack appropriate turf or plant material so as to cause excessive dust, allow the accumulation of debris, or cause significant depreciated values of adjacent or neighborhood properties.

Mr. Hall felt that the simple addition of language to these portions of the codes would allow the City to pursue and encourage landscape maintenance, and would contribute to stability residential neighborhoods ultimately.

Commissioner Merx asked what the trigger would be for older homes. Mr. Hall said the City Attorney had suggested that a clause be included in the amendment that would allow existing homes a certain amount of time to bring their yards into compliance.

Commissioner Merx stated that were a lot of homes that had been foreclosed on. Would new homeowners be given a year from the time they closed on an existing home to bring the yard into compliance? Tony Reynolds felt that existing housing stock was addressed in the ordinance amendment. The City Attorney had recommended that a 'trigger' date for existing homes be included in the amendment when it was adopted. The other part of the scenario was enforcement. He felt that needed to be an administrative matter.

Commissioner Kirch stated that Roy was nearly built out. New homes should be able to put in the front and rear yard landscaping in two years. Homes that had been foreclosed on had already been given two years. Those homes needed to be maintained by the developer or whoever was purchasing the home.

Commissioner Merx did not know how the City could write enforcement for existing homes without landscaping into the ordinance. Mr. Hall felt most owners of existing homes would begin to comply after they were made aware of the maintenance issue.

Tony Reynolds stated that the proposed ordinance covered existing homes, except for the 'trigger' date.

Vice Chairman Holt opened the floor for public comments.

Marge Becraft, 1992 West 3775 South, was excited about the proposed amendment. There were property owners in her neighborhood that had chosen to not take care of their yards.

Missy Powell, 5976 South 2100 West, stated that she was an appraiser. She had appraised homes for collection agencies such as HUD, Fanny Mae, etc. Landscaping used to be part of a mortgage. It was not done that way any longer. Pride in ownership meant taking care of property. If the City told banks they had to take care of properties, they would do it. The bank would sue the prior owners for the difference between the sale price and what was owed on the home. The City needed to put liens on homes earlier so that property owners could afford the clean up. She suggested a one time deal to allow those residents without secondary water time to hook up at a reduced price. Anything that was included on a tax notice could be deducted from income taxes. It came down to what the government required. She felt the City needed to go after maintenance of commercial landscaping as well.

D. L. Thurman, 3100 West, stated that he owned five pieces of real estate in Roy City. He had been trying to get rid of a Chinese Elm on one of his rental properties for five years. He had to let the grass and elm get to a certain height before he could spray the elm, but if the grass got too high he received a nuisance ticket from the City. The City had annexed his property against his will. Now the City wanted to tell him he had to landscape the part of his yard where he kept his goats. He was tired of it. He was tired of government listening to the 'whiny minority.' He would not purchase another piece of property in Roy. He also made sure that he did not spend his money in Roy.

Commissioner Hamilton moved to close the public hearing at 7:40 p.m. Commissioner Merx seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Watts, and Zito voted "aye." The motion carried.

Commissioner Hamilton asked how the staff would quantify depreciation of value. Jared Hall was not sure. It was a statement included in another ordinance he had looked at. Appraisals would have to be conducted to determine if property value had actually gone down.

Vice Chairman Holt stated that appraisers had a lot of latitude. Sometimes landscaping did not affect value.

Mr. Hall suggested that the statement regarding depreciation of value be struck from the proposed amendment language.

Commissioner Kirch felt the ordinance should include a clause to allow new homeowners time, such as 90 days, to bring a neglected yard into compliance.

Tony Reynolds felt the needed discretion was included in the Nuisance Ordinance.

Commissioner Merx stated that due to the time of year not a lot could be done with yards until spring. The Planning Commission needed to be reasonable. The enforcement officer needed to give property owners some latitude. The City should not have to legislate pride of ownership.

Commissioner Kirch moved to recommend that the City Council adopt the text amendments of City Code 4-3-3 and Section 1020 of the Zoning Ordinance as recommended by the staff subject to the sentence about depreciation of property values being stricken from both and the 'trigger' date for existing homes be added prior to Council consideration. Commissioner Merx seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Watts, and Zito voted "aye." The motion carried.

Commissioner Zito was excused at 7:47 p.m.

4. PUBLIC HEARING TO CONSIDER A PROPOSED TEXT AMENDMENT TO SECTION 2003 OF THE ZONING ORDINANCE PERTAINING TO ELECTRONIC MESSAGE CENTER SIGNS

Commissioner Kirch moved to open the public hearing at 7:48 p.m. Commissioner Merx seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, and Watts voted "aye." The motion carried.

Jared Hall stated that the Planning Commission held a public hearing on September 28th to consider a text amendment proposed by several property and business owners in the Community Commercial Zones along 3500 West and Midland Drive regarding EMC (electronic message center signs). When the City Council adopted the sign regulations for Chapter 20 of the Zoning Ordinance in November 2009, it allowed some EMC signs in Community Commercial Zones. Since then the majority of inquiries regarding EMC signs in Community Commercial Zones had been denied based on the language adopted by the City Council. Some property owners had filed an application to amend the text of Section 2003-4(b) to make EMC's available to essentially any property zoned Community Commercial along 3500 West or Midland Drive. After the public hearing, the Planning Commission asked the staff to consider additional EMC signs in Community Commercial Zones on a limited level. The staff proposed that:

1. **Conditional Use.** All EMC signs for individual properties would require a conditional use permit.
2. **Monument Sign Only.** Installation of an EMC sign for Individual properties qualifying for an EMC sign in a Community Commercial Zone would be restricted to monument signs as otherwise allowed by the ordinance.
3. **Allowable Areas in the CC Zone.** The allowance for EMC signs for individual properties would be confined to those properties with frontage on Midland Drive or 3500 West within 600 feet of the intersections of 4000 South, 4800 South, 5600 South, or 6000 South.
4. **Display Transition.** The display of each message before transition be a minimum of six (6) seconds.
5. **Brightness.** A maximum capacity for brightness no greater than 10,000 NITS. All EMC signs in CC Zones should be required to dim between 30% and 50% after 10:00 p.m. and before 6:00 a.m.

Mr. Hall said the staff proposed the following alternative text amendment to Section 2003-4(b):

- c. EMC Signs may be allowed on properties less than three (3) acres with frontage on Midland Drive (north of 4800) or on 3500 West (south of 4800 South) where any portion of the property is located within six hundred (600) feet of the intersections of 4000 South, 4800 South, 5600 South, or 6000 South. Signs allowed under this paragraph shall be governed by the following:

1. Only Monument Signs shall be allowed an EMC component.
2. Display of each message shall remain for a minimum of six (6) seconds before transitioning to another message.
3. EMC Signs shall be allowed a maximum brightness of 10,000 NITS. All EMC Signs shall be dimmed to between 30% and 50% brightness after 10:00 p.m. and before 6:00 a.m. When considering specific signs under the Conditional Use Standards, the City may impose more strict requirements for dimming if it is found warranted by special circumstances.
4. No EMC shall be programmed or operated in such a way as to become a nuisance to surrounding properties, or to be an interference with traffic in any way.

The staff recommended that the Planning Commission recommend approval of the draft language and direct the staff to craft an ordinance for adoption by the City Council.

Commissioner Hamilton felt the language regarding dimming capacity needed to be more clear.

Commissioner Merx asked why the staff was recommending 600 feet from an intersection. Mr. Hall said that was the length of a standard city block. It was a readily identifiable distance.

Commissioner Kirch asked if that distance could be amended if someone requested it. Mr. Hall said the length of a City block covered most of the properties zoned Community Commercial around the major intersections on 3500 West and Midland Drive.

Commissioner Merx stated that 600 feet discriminated against mid-block property owners. Mr. Hall said Community Commercial properties located in the middle of a block were adjacent to residential properties and were more likely to be a nuisance.

Commissioner Merx felt the City needed to be careful about legislating someone out. If a property was located in the right zone, he didn't understand the restriction about what one could or could not do.

Commissioner Hamilton felt the restriction would help control where commercial growth would be. If EMC signs were opened up like they were on 1900 West, the City would create another '1900 West' on 3500 West.

Commissioner Merx felt commercial growth could best be controlled by rezones, not distances of signs from intersections. The 600 feet was not necessary because of a regulation in the Zoning Ordinance.

Tony Reynolds stated that in neighboring and competing commercial areas located in Clinton and Syracuse, property owners were being allowed the EMC signs they were asking for.

Commissioner Hamilton recognized that EMC signs were the signs of the future. He didn't feel EMC signs along 3500 West and Midland Drive would be a problem if they were monument signs. He liked the 600 foot restriction because there was a lot of residential area along the corridor.

Vice Chairman Holt opened the floor for public comments. There were none.

Commissioner Merx asked about the transition time. How much of the display had to change before the six seconds started? Jared Hall said there was animation and transition. A transition was a change in the message itself. After discussion with sign industry representatives, staff didn't feel it was necessary for the City to regulate animation, just transition.

Commissioner Merx moved to close the public hearing at 8:11 p.m. Commissioner Kirch seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, and Watts voted "aye." The motion carried.

Commissioner Watts moved to recommend that the City Council amend 2003-4(b) of the Zoning Ordinance regarding EMC Signs in Community Commercial Zones as recommended by the staff and directed the staff to prepared an ordinance for adoption by the City Council subject to the clarification of brightness to 30% to 50% of capacity. Commissioner Merx seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, and Watts voted "aye." The motion carried.

5. STAFF UPDATE

Jared Hall stated that the Planning Commission had been invited to attend a Council work session on Wednesday, October 27th, to discuss updating the General Plan. The work session would begin at 6:00 p.m. and would be held in the Hope Community Center.

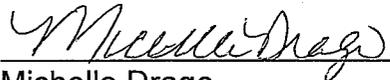
6. ADJOURN

Commissioner Kirch moved to adjourn at 8:11 p.m.



Lee Holt
Vice Chairman

Attest:



Michelle Drago
Secretary

dc:poct2610