



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning and Economic Development Division

m e m o r a n d u m

TO: Bruce Walden, Chief Administrative Officer

FROM: Elizabeth Tyler, AICP, Planning Manager

DATE: July 12, 2001

SUBJECT: Plan Case No. 1787-T-01: Request by the Zoning Administrator to amend Article IX of the Zoning Ordinance by adding Section IX-10, Interim Development Ordinance - Moratorium on Outdoor Advertising Sign Structures.

Introduction

The Zoning Administrator is requesting an amendment to the Zoning Ordinance to add Section IX-10, Interim Development Ordinance - Moratorium on Outdoor Advertising Sign Structures. The proposed Interim Development Ordinance (IDO) will significantly limit the placement of new Outdoor Advertising Sign Structures (OASS), commonly known as "billboards", for a period of 180 days while the existing regulations are reviewed. The moratorium created by the IDO will supersede the current zoning regulations for OASS but will not affect other sign regulations. The proposed text amendment will replace the previous Section IX-10, Interim Development Ordinance - Moratorium on Outdoor Advertising Sign Structures, which expired June 18, 2001.

Background

Within the framework of the previous Interim Development Ordinance, the City Council approved a Zoning Ordinance Text Amendment on June 4, 2001, which created new regulations for OASS's (Ordinance No. 2001-05-044; Plan Case 1777-T-01). The regulations established an increased standard for appearance and placement of billboards. Prior to adoption of the text amendment, City Council requested that staff complete work on a potential "cap and replace" policy for OASS's. A cap and replace policy would limit the increase in the number of new billboards, but could allow them to be moved to other locations within the approved area for OASS's. To begin this process, Council adopted Resolution 2001--6-019R, *A Resolution To Request Plan Commission Review Of Outdoor Advertising Sign Structure (OASS) Placement And To Impose A Temporary Moratorium On Permitting Oass's Until An Interim Development Ordinance Can Be Adopted To Impose A Moratorium On Oass Permit Issuance While Such Review Is Completed on*

June 4, 2001. This Resolution prohibits the issuance of permits for OASS until action is taken on the proposed IDO and serves as the basis for this currently proposed text amendment.

On July 5, 2001 the Plan Commission voted 4 to 1 to recommend **approval** of the request for an amendment to the Zoning Ordinance to create the Interim Development Ordinance presented in the June 28, 2001 memorandum to Plan Commission. Some of the questions by Commissioners included the status of the City of Champaign's regulations, the length of the proposed moratorium, the effect of the moratorium on outdoor advertising companies' business activities, and how the settlement agreement between C & U Poster and the City of Urbana would be affected by the acquisition of C & U Poster by Adams Outdoor Advertising.

A six-month moratorium will allow for a comprehensive review of placing limitations on the number of billboards and will also allow adequate time to consider the effect(s) of any new regulations approved by the City of Champaign. Both outdoor advertising companies active in Champaign-Urbana have been notified of the proposed moratorium and have not communicated any objections. The City has not received any requests for permits since the original IDO expired. The City Attorney has been consulted regarding the C & U Poster settlement agreement and the issue is under review. For more information, please refer to the June 28, 2001 staff memorandum to the Plan Commission and to the minutes of the July 5, 2001 Plan Commission meeting.

Proposed Text Amendment and Discussion

Upon Council direction, staff has identified a number of goals that should be addressed in undertaking a review of the current OASS regulations. These are addressed below and are set forth in the proposed Ordinance, which is attached to this report. The IDO contains a statement of purpose, boundaries, use regulations, duration, and provisions for variations or exceptions. The task force that had been previously convened to study aesthetic questions will be reconvened (with a replacement representative from the City Council and additional member from the billboard industry) to address the issue of a "cap and replace" policy.

Statement of Purpose

The goals to be addressed during the course of the IDO include, but are not limited to:

1. To preserve and protect the health, safety, and welfare of the citizens of the City by preventing the erection of new OASS which conflict with the intent of the Zoning Ordinance.

The intent is further outlined in Section IX-1., Legislative Intent and Findings, which establishes that the purpose of the sign regulations is to comply with the goals of the Comprehensive Plan. Among those goals are:

- To aid in traffic safety by avoiding uncontrolled proliferation of signs which distract and endanger safety and traffic flow;

- To reduce congestion of land, air and space;
- To preserve and protect property values;
- To establish reasonable standards for the use of signs in order to maintain and encourage business activity and development;
- To protect and enhance the physical appearance of the community and the scenic value of the surrounding area; and
- To regulate signs located near or visible from public property such as streets, highways, parks and schools where such signs could jeopardize the public's investment in these facilities.

Furthermore, the sign regulations establish that OASS's represent a separate and unique communication medium available to the general public for the periodic display of signs for announcements of both a commercial and noncommercial nature, utilizing nationally standardized signs or painted panels. At the same time, the regulations recognize that a limitation upon the size, number and spacing of such structures is consistent with and will further the goals expressed herein.

Regulation of OASS's is intended to result in a minimum baseline of architectural compatibility between OASS's and their surroundings with respect to structural color, landscaping, and architectural features, and are intended to result in OASS's that have an acceptable commercial, as opposed to industrial, appearance.

These sign regulations recognize the basic guaranteed right of freedom of speech and therefore are not intended to control the content of any message displayed on signs or outdoor advertising sign structures and do not discriminate between on-premise and off-premise signs.

2. Consider a possible "cap and replace" policy for billboards.

A cap and replace policy is a practical alternative to an outright ban on new billboards, which would cap the overall number of billboards, but allows them to relocate to other areas. A cap and replace policy could be enacted with a cap at the current number of billboards set a maximum number of additional billboards that could be erected from the date of adoption. Other conditions could be placed on the limitation as well.

In considering this alternative, issues to consider include:

- a. Review issues of vested rights and property rights in relation to billboard regulation.

Inherent in the staff's study of the feasibility of enacting a limit on billboards, is consideration of how such a ban would interface with the Federal Highway Beautification Act and the State of Illinois Highway Advertising Control Act, each of which preempt the City's power to regulate to some degree, especially with regard to Interstate highways and federal aid highways. It is possible that the Federal and State Acts, when applied to the City of Urbana, would prohibit a ban or limitation on new billboards in exactly those areas where the City Council may feel that such a ban or limitation would be in order. The issues of vested rights and property rights, in general, should also be addressed through staff review.

- b. Review relationship of billboard regulation with respect to First Amendment freedom of speech rights.

Another consideration that staff must keep in mind is that although billboards are generally regarded as promoting only commercial advertisements, there are also many instances where they carry noncommercial and political messages, so we must consider whether a limit on new billboards would have unintended, but unconstitutional ramifications with respect to First Amendment freedom of speech rights.

- c. Although perhaps a minor concern, consider the ramifications of any moratorium and subsequent amendments on the C&U Poster settlement agreement.

As previously mentioned, C & U Poster Advertising Co. was recently acquired by Adams Outdoor Advertising. The effect this transaction will have on the existing settlement agreement is currently under review. Representatives from Adams Outdoor Advertising have indicated their willingness to participate in the Task Force.

3. Consider alternatives, such as an increase in the spacing requirement between OASS's, that may be appropriate in concert with a cap and replace limitation.

Although the Urbana Zoning Ordinance already significantly restricts the location of new billboards to a limited number of FAP/FAI routes, the current spacing requirement of 300 feet between OASS's may allow an excessive number of billboards to be constructed if full "build out" were to occur.

4. Review any ordinances passed or proposed by the City of Champaign in terms of their potential effect on the billboard market for the City of Urbana.

As the City of Champaign has recently approved new billboard regulations, the City of Urbana should consider the potential impacts these regulations.

At the present time, no permanent text amendments to the Zoning Ordinance have been proposed but will be considered. Future permanent text amendments may include a “cap and replace” limitation for OASS’s. These proposed amendments will come before the Plan Commission and City Council after a task force review is conducted during the moratorium. The two companies currently involved in OASS construction and maintenance within Urbana are Adams Outdoor Advertising and Bressler Outdoor Advertising. Staff will contact representatives from these two companies and invite their participation to discuss possible changes in the sign regulations portion of the Urbana Zoning Ordinance.

Boundaries

The Interim Development Ordinance would apply to all areas where OASS are currently allowed. The Zoning Ordinance restricts OASS to commercial and industrial zones that are along FAP (Federal Aid-Primary) or FAI (Federal Aid-Interstate) routes. These routes include I-74, University Avenue, Cunningham Avenue, Lincoln Avenue north of Bradley Avenue, and Vine Street between Main Street and University Avenue.

Use Regulations

The IDO will prevent the issuance of all permits for OASS, other than those that meet the requirements for the variations and exceptions listed below. The IDO would not apply to other types of signs.

Duration

The IDO will be in effect for 180 calendar days from the date of adoption by the City Council.

Variation or Exception

The proposed amendment allows some exceptions to the moratorium on permits to accommodate special circumstances that may occur during the length of the IDO. Under the proposal, permits for OASS may be allowed under the following circumstances:

Replacement

The Zoning Administrator may authorize issuance of a permit to replace an existing OASS if said OASS is damaged, through no fault of the owner, to the extent that complete removal and replacement is required.

Hardship

The Zoning Administrator will authorize the issuance of a permit for a new OASS when the owner of the property can demonstrate that disallowing such a permit would eliminate any reasonable use of the property.

Summary of Findings

1. The City of Urbana is interested in a possible “cap and replace” policy, which would place a limitation on the number of new billboards that could be constructed in order to protect and enhance the physical appearance of the community and the scenic value of the surrounding area. This calls for a review of the adequacy of our current sign regulations, and a consideration of the need for amendments to the Zoning Ordinance.
2. The previous Interim Development Ordinance (IDO) did not allow adequate time to thoroughly study the issue, and an additional IDO is necessary to allow staff to conduct a thorough review of the sign regulations as they relate to OASS for a period of 180 days.
3. The proposed amendment will allow staff to work with representatives from the industry to propose changes to the sign regulations.

Options

The City Council has the following options in Plan Case 1787-T-01:

- a. Approve the proposed text amendment to the Zoning Ordinance, as presented herein; or
- b. Approve the proposed text amendment to the Zoning Ordinance, as modified by specific suggested changes; or
- c. Deny the proposed text amendment to the Zoning Ordinance.

Recommendation

For the reasons articulated above, the Plan Commission and staff recommend that the City Council **APPROVE** the proposed text amendment to the Zoning Ordinance as presented herein.

Prepared by:

Tim Ross, Planner

Attachments: Proposed Interim Development Ordinance
Draft Minutes from the July 5, 2001 Plan Commission meeting

C: Jennifer Sloane, General Counsel, Bressler Outdoor Advertising
Kelly French-Strube, Adams Outdoor Advertising
Kip Pope

ORDINANCE NO. 2001-07-078

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF URBANA

(To add Section IX-10, Interim Development Ordinance - Moratorium on Outdoor Advertising Sign Structures - Plan Case No. 1787-T-01)

WHEREAS, the City Council of the City of Urbana, Illinois adopted Ordinance No. 9293-124 on June 21, 1993 consisting of a Comprehensive Amendment to the 1979 Zoning Ordinance of the City of Urbana, also known as the Urbana Zoning Ordinance; and

WHEREAS, Article IX of the Urbana Zoning Ordinance, Comprehensive Sign Regulations, includes as an intent of regulating signs, to protect and enhance the physical appearance of the community and the scenic value of the surrounding area; and

WHEREAS, the City Council has directed staff to investigate a "cap and replace" policy which would place a limitation on the number of new billboards; and

WHEREAS, to consider such a policy the City of Urbana intends to conduct a comprehensive review of OASS regulations through a Task Force that will consist of one Council member,

representatives of the outdoor advertising industry, and appropriate City staff; and

WHEREAS, conducting such a review within a moratorium on OASS permits will prevent a disproportionate number of permit requests, which could occur in anticipation of changes to OASS regulations; and

WHEREAS, the Urbana City Council on June 4, 2001 approved Resolution #2001-6-019R to authorize a temporary moratorium on OASS permits; and

WHEREAS, the Urbana Zoning Administrator has submitted a petition to amend the Urbana Zoning Ordinance in order to create a 180 day moratorium on the issuance of permits for Outdoor Advertising Sign Structures; and

WHEREAS, the Urbana Plan Commission considered this petition as Plan Case 1787-T-01 on July 5, 2001 and voted 4-1 to recommend approval.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The Zoning Ordinance of the City of Urbana is hereby amended by adding a new Section IX-10 to be titled "Outdoor Advertising Sign Structures Moratorium" which provides as follows:

Section IX-10. Outdoor Advertising Sign Structures Moratorium

A. Statement of Purpose - The purposes of the regulations contained in this Article are:

1. To preserve and protect the health, safety, and welfare of the citizens of the City by preventing the erection of new OASS's which conflict with the intent of the Zoning Ordinance.
2. Consider a possible "cap and replace" policy for billboards. In doing so, consider the following:
 - a. Review issues of vested rights and property rights in relation to billboard regulation.
 - b. Review relationship of billboard regulation with respect to First Amendment freedom of speech rights.
 - c. Consider the ramifications of any moratorium and subsequent amendments on the C&U Poster

settlement agreement.

3. Review alternatives, such as an increase in the spacing requirement between OASS's, that may be appropriate in concert with a cap and replace limitation.

4. Prevent disproportionate increase in OASS permit requests which could occur as a result of new billboard regulations approved by City of Champaign.

B. Boundaries - All property within the City limits in all zoning districts which currently permit the construction and operation of an OASS. As set forth in Table IX-5 of this Zoning Ordinance, these areas are along FAP or FAI routes in areas zoned B-3 (General Business), B-4E (Central Business Expansion) and IN (Industrial) and within 660 feet of either side of such FAP/FAI routes; in B-3, and IN districts along Lincoln Avenue north of Bradley Avenue; and in B-3, B-4, B-4E and IN districts along Vine Street between Main Street and University Avenue.

C. Use Regulations - All permitted or provisional uses as currently allowed by the Zoning Ordinance are permitted, except OASS. Any permit application for an OASS, other than those meeting the exception criteria listed under Section IX-10.E shall be denied.

D. Duration - 180 calendar days from July 16, 2001

E. Variation or Exception

1. Replacement - The Zoning Administrator may authorize issuance of a permit to replace an existing OASS if said OASS is damaged, through no fault of the owner, to the extent that complete removal and replacement is required.

2. Hardship - The Zoning Administrator will authorize the issuance of a permit for a new OASS when the owner of the property can demonstrate that disallowing such a permit would eliminate any reasonable use of the property.

Section 2. If any section, paragraph, or provision of this Ordinance is held to be invalid or unenforceable, such invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance, or the provisions of the Code.

Section 3. The provisions of this Ordinance shall take precedence and be interpreted as superseding any other Ordinance (including but not limited to Table IX-5, Standards for Future Outdoor Advertising Sign Structures) in conflict with the provisions of this Ordinance.

Section 4. This Ordinance shall be effective July 16, 2001.

Section 5. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

PASSED by the City Council this _____ day of
_____, _____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of

_____, _____.

Tod Satterthwaite, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the _____ day of _____, 2001, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF URBANA (To add Section IX-10, Interim Development Ordinance - Moratorium on Outdoor Advertising Sign Structures - Plan Case No. 1787-T-01)" which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. _____ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, 2001, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, 2001.