

Cold Spring Planning & Zoning December 14, 2011

The regular meeting of the Cold Spring Planning and Zoning Commission was called to order by Chair Donna Schmidt. Pledge to the flag was led by the city clerk. Roll call showed the following present – Alan McCullough, Tony Ponting, Donna Schmidt, Vince Sticklen, and Tami Trunick – excused was Christopher Vaught. Also present were City Clerk Rita Seger, Attorney Abby Voelker, and Andy Videkovich, NKAPC.

Chair Schmidt pointed out the exits from the building, per Fire Department regulations.

The November 9, 2011 regular meeting minutes were reviewed by all. Vince Sticklen made a motion to approve these minutes and Alan McCullough seconded motion. All were in favor. Motion carried.

A motion was made by Alan McCullough to **table the public hearing on a proposed map amendment to change the HC* zone to the new designation of HC-2 zone until the January 11, 2012 Planning & Zoning meeting.** Tony Ponting seconded the motion. All were in favor. **Motion carried.**

A motion was made by Alan McCullough to **table the public hearing on a proposed text amendment to add recycling warehouse to the HC-2 zone until the January 11, 2012 Planning & Zoning meeting.** Tony Ponting seconded the motion. All were in favor. **Motion carried.**

Chair Schmidt called to order the public hearing on an approximate 5.7 acre area located along the southwest side of the AA Highway between Rocky View Drive and East Low Gap Road, approximately 200 feet southeast of Rocky View Drive, on a **proposed Stage II Development Plan for the site currently zoned MUPD; the applicant (Immanuel Baptist Church) proposes to erect a class 9 pole sign with electronic changeable copy.**

Andy Videkovich, NKAPC, gave the staff review with a power point presentation. Since signage for this site was not shown on the original Stage II Development Plan approved in 2007, it has to be approved through another Stage II Development Plan. He reviewed the history of the project, current zoning, and described the location of the property and the proposed site of the sign, which will be set back approximately 13 feet from the right of way line of the AA Highway. Mr. Videkovich explained that the MUPD zone does not have any specific sign requirements. Staff has classified this as a Class 9 sign because it is the closest match within the ordinance. The only sign classification that permits an electronic reader board is a Class 10 sign. Class 10 signs are only permitted within the SDA zone. Within the Class 10 sign, only 25 percent of the total sign area can be a reader board. This is a concern of staff because the proposed sign has a 45 percent reader board which exceeds the maximum allowed by our zoning ordinance.

Another concern is about the precedent that this will set, if approved. It is conceivable that other users within the MUPD zone may come back and ask for reader boards such as this as well. Therefore, Staff has given this an unfavorable recommendation. If this Planning Commission does approve of this signage, then Staff has recommended that five conditions be placed on the signage, as listed in Items J 1. a. thru e. of Staff report.

Vince Sticklen commented that after reviewing our sign regulations this past year, this Board was leaning toward not allowing reader boards in the city. If we allow this, technically we could have changeable copy signs going all the way down the AA Highway. Andy Videkovich stated that from Staff perspective, there is nothing wrong with the technology as long as it is done a certain way. In the case of the MUPD zone since there are no real specific sign regulations you can get requests, but obviously this board would have to approve them. It is the percentage of the changeable copy sign area that is their main concern. No action has been taken yet on this Board's recent review of changeable copy signage.

Alan McCullough stated that with the regulations being a 25 percent reader board area and with this being almost double that amount, he is concerned with the problems this may cause down the road. We should try to stay within the regulations.

Tami Trunick questioned who or how management goes about making sure that we are adhering to the eight second sign change rule and that any animation or scrolling is managed appropriately. The city of Alexandria has issues with this and she does not want this trouble in our city. Andy Videkovich stated that if there is a problem or complaint, our code enforcement would inspect the timing on the changes and if it is going too fast, then there are reasonable measures that they can take from a code enforcement standpoint.

Nathan Deaton, clerk for Immanuel Baptist Church addressed the Board. Also present on behalf of Immanuel Baptist Church were Ken Bonapfel who is the electrician for their church, construction manager Roy Miller, and Associate Pastor Dan Stewart. They respect the comments and reservations given by Staff tonight, and they have done their due diligence as well to investigate those same issues. He addressed the two main concerns raised by Mr. Videkovich, the first being the percentage of the changeable copy signage. They have selected this size because of the location. Being on the AA Highway, a greater rate of traffic goes past at a high rate of speed. They don't want to create a greater distraction by a sign that is small and would require drivers to take their focus off the road for a greater length of time. The location on the opposite side of power lines could cause the copy to not be as visible because of dangling lines crossing the drivers' line of sight. There is a slight incline with a ridge. The proposed size of the reader board would allow a driver the ability to see it while approaching, not when they are actually up to the sign if it had smaller lettering.

Also safety is a concept. This proposed sign is based on scientific data for standards on electronic reader board signs. Research shows that electronic signs need at least one inch of character for every fifty feet you are away from the sign, travelling at fifty five m.p.h. This sign would allow them to have up to three lines of text that would have eight point three inch characters. You need an eight inch character travelling at fifty five m.p.h. to have five seconds of read time. This is safest for travelers without being a major distraction. The smaller the LED board is, you are forced to shrink the size of the characters. The proposed sign location is approximately 490 feet from the turn lane on the AA Highway and from that distance to the center point of where the sign would be is approximately 500 feet.

The church will be using this electronic reader board not to change verses, scriptures or cute sayings, but only to identify special events they are holding or announce service times. It will be only for the purpose of strict information. They will only have three or four messages, and none of them would be complicated, extended or require scrolling. If they shrink the sign to get within the 25 percent requirement, then they will have letters that are too hard to read until you are actually at the exit.

As far as the concern of setting a precedent, this request is really for a variance, which permits this board to use very specific language as to why the sign was permitted, and under what conditions and stipulations. Any future development in this zone would not establish a precedent because they would then have to base their argument on specific stipulations that would be placed in the language of the variance.

The sign company has already met the stipulations that NKAPC has laid out, and it goes a step further. They can black out the reader board portion of the sign overnight for a certain period of time if the City makes this stipulation, and the only portion that you would see would be the backlit stationary portion of the sign showing Immanuel Baptist Church. Mr. Deacon reviewed the reasons why they selected this sign company. They are well qualified to provide them with the best opportunity so they can represent our city and community correctly.

After reviewing Staff report, as an alternative they spoke with the sign company and have come up with another design that would shrink the LED Board to an 8 foot wide by 3.1 inch tall sign, which brings the LED reader board size down to a 33 percent coverage for sign space, however this sign would be a full color capability and scrolling, while the preferred and proposed sign uses only an amber red color.

Vince Sticklen questioned if they could get their message across with only two lines instead of three by making the sign smaller. Mr. Deaton said that as you shrink the sign height-wise, you also shrink it width-wise and to get in the entire message, it might require scrolling or multiple messages for that amount of text. On the wider sign you would be able to get the entire message on it.

Mr. Sticklen verified that they are not interested in scrolling different messages, but just have one message up at a time that changes. Mr. Deaton stated that the Church would control the duration of the sign and only intends to use short, bullet-point style basic messaging. The only time that they would come out of compliance would be mechanical failure, at which point they would shut the sign down until the software could be corrected.

Tony Pointing stated that an interesting point is that you are allowed up to 150 square feet for a Class 9 sign. Their proposed sign is only 72.5 square feet. If they went up to a 150 square foot sign, then they could meet the percentage requirements allowed for the electronic reader board area. Mr. Deaton stated that to increase the sign with the technology required also greatly increases their cost, and also he understood that you cannot have electronic readers on Class 9 signs.

Mr. Videkovich stated that they are both correct. Staff has classified it as a Class 9 sign only because the description is the closest match in the height and area of the sign.

Vince Sticklen stated that changeable signs are very distracting, and his biggest concern is how often it is going to change. Mr. Deaton stated that the technology would probably allow them to delay changes by minutes, not just seconds. They are willing to work with this Board to make this feasible.

Alan McCullough stated that one of the problems is the setback for the sign. If the size were within the regulations, you would not be able to read it. Mr. Deaton said that is very accurate, and if they had the capability or funds to purchase the plot of land from the State on the other side of the power lines for their sign footers, they would do so. He discussed the location of the sign from the Rocky View, the driveway, highway, fence and crest of the hill. Mr. Deaton's "guesstimate" on the sign distance from the actual roadway is from sixty to seventy-five feet. Mr. Deaton stated that the turning lane at the AA Highway that was put in there is instrumental in keeping it safe for their church members as well as residents living on Rocky View Drive.

Vince Sticklen verified with Mr. Videkovich that if this Board approves this proposed signage, five stipulations on page 3 of the NKAPC Staff review should be imposed. The minimum eight second change stipulation was based on what NKAPC's consulting agency thought was reasonable amount of time for people driving by.

Tony Ponting asked for additional information on the three foot x eight foot sign which Mr. Deaton said may be an alternative. Mr. Deaton stated that it would afford only two lines of text, however the cabinet is full color with the capability of showing video and animations, which they do not intend to utilize. The software is more complicated making this longer to learn.

Chair Schmidt closed the public hearing. Discussion followed.

Alan McCullough stated that since this type of sign is being proposed for the first time in the City we want to do it correctly. He made a **motion to table this public hearing to the January 11th Planning and Zoning meeting** to give the Board time to do more research. Vince Sticklen said we need to get definitive answers from Immanuel Baptist Church on how often they want the reader board sign to change, what their expectations are, and how it would be used as far as changeable copy. He would like for them to come back with a presentation to this Board, with the authority of the church, to answer these questions. Mr. Deaton stated that they are comfortable with the stipulations that NKAPC has listed, and if this Board wants to set any other stipulations, they will certainly address that. He would like for this Board to clarify exactly what they would like.

Vince Sticklen stated that he wants something in writing stating how they will use this sign. He doesn't want any misunderstandings between Immanuel Baptist, and this Boards' intentions. That would help make this Boards' decision a little easier.

Associate Pastor Stewart stated that the idea for the reader board sign is to put two or three messages up, and have an instant change instead of scrolling, and then they can work out what timing might be safe, and whatever this Board deems reasonable.

Alan McCullough verified that the sign company has a website that has videos of this type of signage. Mr. Deaton stated that the company is based in Florida, so the signs on the website are low signs because they are set for a high wind. Due to that, tall signs such as the one being proposed by Immanuel Baptist may not be shown in that video.

Vince Sticklen said another issue would be if they are going to turn the sign off at a certain time at night. Mr. Deaton said they are trying to be as thoughtful of the surrounding property owners as they can. They would love to continue to move forward and avoid tabling this if possible. If they agreed to only change the message once every twenty seconds, he questioned if this would that be favorable to allow this Board to continue discussions tonight.

Donna Schmidt questioned Andy Videkovich to see if there would be an issue to change this condition to increase the amount of time for the sign to change, or if this could be a future problem. We would want to add the condition to turn the reader board off during a certain period at night. Mr. Videkovich sees no problems or future issues on this.

Alan McCullough stated this is the first time this Board has been approached for an LED, and now we are being asked for 20 percent more area for the reader board and this may open a floodgate. Vince Sticklen agrees and stated we need more time to review this. Donna Schmidt verified that the sign is in an area that does not have sign regulations so if we have someone else come in who is located in a different zone, we won't have this issue.

Vince Sticklen stated that the AA Highway is basically the same zone. You could possibly have signs going all the way down the AA Highway one after another. Andy Videkovich stated that there would be a level of control, since they would have to come back with a Stage II Development Plan, giving this body the authority to place conditions on them.

Tony Ponting questioned if there were light control stipulations for nearby neighborhoods. Andy Videkovich replied that our zoning regulations state that there should be no lighting which would glare from any use located within a zone onto any property or street. It is very subjective. If someone puts up a floodlight and complains about it, someone would have to make a reasonable interpretation. This is a very large piece of property, and the sign is far from the nearest residence

Donna Schmidt stated that if we set a time line for when the lights would have to be turned off at night then this would help with some of this problem. Tami Trunick stated that it would perhaps be more reasonable that they have only one message up after a certain period of time at night, with no flashing or animation. They are making a big investment in this sign, and they may be very limited on the capabilities of what they can do with it depending on what happens tonight. We should establish a guideline and stipulate that it dims with only one message. Andy Videkovich stated that you can regulate the time, manner and placement of signs, but you cannot regulate what the message says. You can stipulate that it automatically dims after a certain time.

Associate Pastor Stewart stated that they do not leave their floodlights on at night but if they did, there would be more light pollution from the floodlights than this sign. They respect their neighbors and turn them off.

Donna Schmidt reviewed the options. The first is to approve staffs' unfavorable recommendation and the second is to approve the proposed sign with electronic reader boards, with conditions including the five as listed in staff report, and to change condition J 1.a. to have it change from every eight seconds to every twenty seconds and to add condition f, that it be either turned off and turned on at a specific time, or that the sign remain stagnant between a specific time frame.

Alan McCullough stated the third option is his motion to table this discussion until the January 11, 2012 Planning and Zoning meeting. Mr. Deaton stated that they are open to options and ideas coming into this meeting, and questioned if this is tabled to work on wording, would they need to submit any additional applications or information. Andy Videkovich said they would have to submit a new application with any additional information as soon as possible. There would not be additional fees. They will not have to send out new notifications since anyone interested is here tonight

Vince Sticklen stated that we don't want to get into next month's meeting and find additional items that they want to put into it. It would be good to have a meeting of the minds to get this worked out. Also, we have to consider that this will be a guideline on how this will affect other properties down the road. Mr. Deacon stated that they do not want to create additional work for this Board or delay the process by their neglect of submitting something that this Board wants to have clarified and he would like some direction. Andy Videkovich stated that the information is basically on page 3 of Staff report, and they can show how they would address each condition.

Vince Sticken **seconded the motion** made by Alan McCullough to table this hearing until the January 11, 2012 meeting. Roll call vote showed all were in favor. **Motion carried.**

Tony Ponting questioned how we go about re-writing the stipulations and getting them back to the applicant before the meeting in January. They may write up an answer to the conditions but then this Board may come back with a different ideas. Associate Pastor Stewart stated that he knows this Board has questions to answer among themselves, but questioned how to work this out between each group before next month's meeting. He verified that there are only two areas that need clarification.

Vince Sticklen questioned if this Board could get together before the January meeting for this discussion, not in a public forum. Attorney Abby Voelker stated that that is a violation of the open meetings act. You will have to open the meeting up to the public.

Donna Schmidt stated that we have passed a motion to table this discussion, but questioned if we now want to remove the motion to table it, re-open the public hearing, address all of the questions that this Board has tonight to clear up what we are asking them to do, and then re-table it again for next month's meeting.

Alan McCullough made a **motion to remove the tabling of this public hearing to next month and re-open discussion.** Vince Sticklen seconded the motion. All were in favor. **Motion carried.**

Chair Schmidt **re-opened the public hearing** to address the outstanding questions on the signage for applicant Immanuel Baptist Church. She stated that this Board now needs to finalize what questions are outstanding concerns. We discussed moving the timing of the reader board changes from eight seconds to twenty seconds, and Chair Schmidt verified that this Board is still in agreement that this condition change is reasonable. She reviewed conditions as noted on items b., c., d., and e., which will remain the same as listed in Staff report. Chair Schmidt verified that that item J. 1. f. should be added, to include the condition that they will either turn the reader board off during the night, or leave it as a static sign and dim it as a still message.

Discussion followed. Vince Sticklen stated he would like to have the electronic reader board portion of the sign turned off, because it may still be distracting in the middle of the night. Donna Schmidt stated that she is okay with it being static, with one only communication. Mr. Deaton stated that we now get into the issue of clarifying what the degrees of brightness are, and what would be considered a dim or not dim light and what the sign capabilities of dimming are.

Vince Sticklen stated, in view of this concern it would probably be better just to have the sign turned off. If anyone else comes before this Board we will then have the option to say that their light would have to be turned off at a certain time. Alan McCullough verified that the top portion of the sign will be lit with just their name. He stated that down the road you may have a business that is open 24 hours, and questioned what you would do then.

Tony Ponting questioned if Mr. Deaton could check into what the degrees of dimness are, such as 500 nits versus 200 nits. Associate Pastor Stewart said he would have to check on the technology with the company. Because the sign has a red ambient light the dimming would have a shady feature. The ambient monitor controls the shading of how bright it would be and what the ratio would be. At nighttime it would dim to a certain degree, but they could change the dimming beyond that. He is uncertain of how to put the different shades of the red ambient light in writing. They would not have a problem turning it off in the evening. He added that the conditions being stated tonight will go into the records of the minutes as being official, and if we can reach an agreement, instead of tabling this until next month, we can move this along.

Andy Videkovich stated that if everyone is agreeable to the conditions we are now discussing, once you take your action those conditions are in writing, so he doesn't see a reason why they would have to come back next month just to say that they are agreeable to twenty seconds sign change. The only other sticking point was either turning the reader board off/on or dimming the LED reader board, and it would be better to just try to resolve this tonight if possible.

Tami Trunick verified that we do not have to add the wording "no video" to the conditions. Andy Videkovich stated that this is included as part of conditions under condition J. 1. c. which refers to the way the sign changes.

Mr. Deaton stated that the people who make the financial investments of the church are anxious to get this project moving. For the sake of moving forward, they would be agreeable to use the blackout feature. After the actual technology is in their hands and after they have more of an understanding of what the shades of the red ambient light would be, if they find that the shaded technology is something that they really desire to do then they will re-approach NKAPC.

Andy Videkovich stated that he is not exactly sure how we would do this, since we have never had it happen where the Planning Commission made a recommendation for the future and then the applicant has comes back and asks for that particular decision to be reconsidered. His opinion is that it would have to be re-visited by the Planning Commission, unless we make a condition to authorize Staff or City Staff to make that change down the road.

Alan McCullough commented on the dimming, and said that if the nits are too low, people will be slowing down to see what it is saying. Mr. Deaton stated that we are talking about a hypothetical argument right now, because we don't know how many nits would dim the light sufficiently. As long as there is that opportunity to revisit it, then they understand that that is the risk that they are willing to take.

Vince Sticklen made a motion **to approve the proposed Stage II Development Plan for Immanuel Baptist Church to erect a class 9 pole sign with electronic changeable copy, to include conditions J. 1. a. thru 1 e. as listed in NKAPC Staff report, changing the wording in condition 1 a. to show that the sign changes no more often than every twenty seconds instead of eight seconds, and adding condition f. showing that the LED reader board is to be blacked out between the hours of 11 pm to 5 am every day.** Tami Trunick seconded the motion. Roll call vote showed five yeses and no noes. **Motion carried.**

Dave Thiem of the Board of Adjustment received 1.5 hours of continuing education per House Bill 55. Vince Sticklen made a motion for approval and Tami Trunick seconded the motion. All were in favor. Motion carried.

Donna Schmidt stated that a **nominating committee** of Planning & Zoning members is needed to appoint officers for 2012. **Tami Trunick, Vince Sticklen and Alan McCullough volunteered to be on this committee.** Recommendations will be made at the January 11, 2011 meeting.

Vince Sticklen made a motion to adjourn the December 14, 2011 meeting and Tami Trunick seconded the motion. All were in favor. Motion carried.

Respectfully submitted,

Rita Seger, City Clerk