

Indian Head Planning Commission Meeting Minutes
Indian Head Pavilion
October 17, 2018

Michael Pellegrino called the Planning Commission meeting to order at 6:05p.m. Members in attendance:

Michael Pellegrino, Chairman
Warren Bowie
Thomas Blake
Anita Sampson
Wayne Higdon 6:20pm

Staff in attendance:
Ryan Hicks, Town Manager
Mark Harman, Zoning Administrator
Andrea Brady, Clerk
Fred Sussman, Town Attorney

Chairman Pellegrino took a moment to introduce Mark Harman, the new Zoning Administrator. Mr. Harman is the Vice President for ARRO consulting.

Sign/Canopy Permit: 4175 Indian Head Highway (Clarity Coffee Shop) – The Clarity Coffee Shop will be located in the old Hilltop Nutrition location, near the hair salon. The applicants have done rehab work inside the facility and they would like to have the sign installed and they hope to open at the beginning of November. Thomas Blake made a motion to approve the sign/canopy permit. Ms. Sampson seconds the motion. Warren Bowie pointed out that the Sign Ordinance says no sign shall project further than 12 inches. Mr. Harman stated that the lettering and logo falls within the regulations for the sign and the canopy is also within the permitted requirements. Mr. Harman explained that it falls within the types permitted, under section 1618, when utilizing the canopy as a sign. The Commission reviewed the sign ordinance and the zoning ordinance to verify that the sign/canopy would be permitted. The sign will be an aluminum frame with a stretch material. Following discussion, the Commission took a vote on the motion and the motion carried.

The commission took a moment to introduce themselves to Mr. Harman. Following introductions Mr. Harman gave his professional background.

Approval of Meeting Minutes – Chairman Pellegrino requested a motion to approve the September 19, 2018 minutes. Warren Bowie made a motion to approve the minutes as presented. Thomas Blake seconds the motion. Motion carried.

FY17 Annual Report – After reading through the FY17 Annual Report, Mr. Harman stated he had to do several updates and asked for the Commissions comments for any updates to be added to the report. Mr. Bowie stated that on page 1 the Base is not the largest employer, it is actually

the 2nd largest and the Board of Education is the largest. Mr. Bowie and Mr. Pellegrino both asked for clarification on the 9 new residential lots created. Town Manager Hicks believes that is referencing the Rainbow construction (Stuart Court) lots. Mr. Bowie believed that was some time ago and did not believe it was 2017. Mr. Harman plans to go through the minutes to provide a clarification on that item and will provide an approval date as well as a name associated with the lots. Mr. Bowie stated that on page 6 it shows 4 sign permits, but only 2 are listed in the summary of development and occupancy certificates list 7 of commercial, but on page 10 it states none were issued. Mr. Bowie stated that on page 8, zoning map approval, it states 7 acres of land zoned from OS to TCMX, but then states there were no land use changes and by changing the zoning it would be a land use change. Mr. Blake had an editorial change on page 1, change the wording to “as is” before “vitally important”. Chairman Pellegrino asked for an explanation of what Other is on Table 3-1 page 6. Mr. Harman will list all items included under Other in an explanation at the bottom. Chairman Pellegrino also stated that he does not know that OS to TCMX is a smart growth measure. Mr. Bowie stated that the verbiage in the report needs to change about the submission of the zoning ordinance. Mr. Harman will specify that the Ordinance went to the Town Council for review, but following approval it will have to go to the County for their review. Mr. Harman will update the report as discussed, and asked if anyone finds anything else to please email any comments or changes to Town Clerk Brady so they can be addressed. The updated report will be included on the next agenda.

Memo: Palmer Plat on Sixth Street – The Commission received the memo via email and reached a consensus for Chairman Pellegrino to move forward with signing the plat. (Memo is attached.) Chairman Pellegrino agrees with the changes that were to address the issues, and will move forward with signing the plat once the easements have been completed. Chairman Pellegrino also requested that anytime the Commission approves something with conditions that they receive a memo stating how those conditions were met.

Discussion of Sign Ordinance – Town Attorney, Fred Sussman met with the Commission to discuss the Town’s Sign Ordinance. Mr. Sussman provided the Commission with a copy of the existing Ordinance with highlighted sections that could potentially raise issues. (See attached.)

Mr. Sussman discussed the Supreme Court case, Reed v. Town of Gilbert and explained that most sign codes around the Country are subject to challenge and even most sign codes people are trying to create are subject to challenge. The International Municipal Lawyers Association, had been trying for to several years to develop a model sign code, and following several drafts they concluded they couldn’t recommend anything to their entire membership, because anything they could come up with would be subject to potential challenge.

Mr. Sussman discussed types of temporary signs that were in question in the Gilbert case with the distinctions being based upon the content of the sign. The Court stated that if all the signs have the same impact on public safety, it would not make sense to have different allowances or requirements for each. It all comes down to major first amendment law. If you have to look at a sign for approval, it would be approval based off of content and you cannot discriminate on the basis of content.

Mr. Sussman stated that he worked with the Town of La Plata for 6 months on their sign code and there are still items that if challenged, could be shot down. During the revision process they did a sign by sign analysis.

Mr. Sussman and the Commission reviewed several of the highlighted sections of the Town's Sign Ordinance. Main points being, that you cannot discriminate based on sign content. For content based regulations, you must see whether the regulation furthers a compelling state interest and is narrowly tailored to accomplish that object and for content-neutral regulations you must see whether the regulation is narrowly tailored to further a substantial governmental interest and ample alternative means are available to communicate the desired message.

Discussion of some of the highlighted sections included the following:

Off Premises Signs. Mr. Sussman highlighted this because it creates a distinction which can be a major issue because there are so many categories for what is exempt with the question being how you draw the distinctions and why. The Commission needs to look at what distinctions are being drawn based off of content and the message.

Section 1601 Permit Required for Signs (b) i. Mr. Sussman was not sure what was being proposed for permit process criteria and said it needs to be clearly spelled out with minimal discretion to the regulator. Sign permits are supposed to be reviewed and issued expeditiously.

Page 16.3, Mr. Sussman stated that these are signs that are exempt from regulation, but the question is why these particular signs are exempt from regulation when plenty of other signs are subject to regulation. Why are these distinctions being drawn. Item c. is giving favorable treatment to a sign based on content. Chairman Pellegrino stated that when speaking about church bulletin boards and political signs it shouldn't even be included in the Ordinance. Mr. Sussman said the Commission needs to consider why the Ordinance applies different standards to one type of sign vs another sign. How is it furthering the compelling interest of aesthetics or traffic safety.

Mr. Blake felt that the Town of La Plata's ordinance would be helpful to allow the Commission to see their changes to have something compare the Town's Ordinance to and to assist with the discussion and recommended that the Commission compare the Town's existing document with highlights against the La Plata ordinance.

Section 1603 Certain Temporary Signs: Permit Exemptions and Additional Regulations. Mr. Sussman pointed out that this is different treatment based on different classes of signs.

Section 1608 Number of Freestanding Signs. Mr. Sussman felt this section needed clarification on what was intended by "development".

1610 Location and Height Requirements (b). Mr. Sussman explained that this section allows holiday displays to as high as you want but other displays are limited. There is also a distinction on illumination, and the Commission will need to review why that distinction is being made.

Section 1611 Sign Illumination and Signs Containing Lights. Mr. Sussman was not sure the process by which approval would occur and asked if that meant that every sign has to go before the Planning Commission or Board of Zoning Appeals, with the question of what the timeline would be for approval. Mr. Sussman asked what the admin process is for sending a sign permit application for the Commission's consideration and stated it could be a real issue when sign permits are supposed to be reviewed and acted upon expeditiously. Chairman Pellegrino explained that all sign applications currently come before the Commission. Mr. Sussman explained that with the Commission meeting once a month, if someone wanted to challenge the requirement, they could say that they should be issued the permit and the ordinance is invalid because it doesn't provide and expeditious process.

Section 16.17 Maximum Total Sign Area by Zoning District. Mr. Sussman was not sure how this applies in the total regulatory scheme, and was not sure if it could be problematic. Chairman Pellegrino stated that this regulation is by Zoning Districts. Mr. Sussman stated that Reed v. Gilbert did not deal with differences between signage in zoning districts.

Mr. Sussman expressed the importance to regulate on the manner of signage not the content because once you get into trying to regulate content based signs you will start running into problems.

Mr. Bowie expressed concern about enforcement on signs considered abandoned to be removed by the sign owner. Mr. Sussman stated that it would be laid out in the Zoning Ordinance, if you violate this chapter it is subject to a fine, for example \$125 each day until the violation is addressed. Mr. Harman explained that there is an enforcement that outlines what has to occur, and the Town could go after someone for not satisfying this provision.

Mr. Bowie asked about the Town's requirement of a \$50 deposit in order to put up political signs. Mr. Sussman stated that the Town cannot collect a \$50 fee for political signs and expressed concerns of the potential issues that could cause with the ACLU. Town Manager Hicks believes the \$50 fee is still in the draft Zoning Ordinance. Mr. Sussman said it would be best to delete the fee since the goal is to minimize the area for potential challenge.

Mr. Harman asked Mr. Sussman if it would be possible to get the Commission a copy of the Town of La Plata's revised Sign Ordinance, because he felt it would be a valuable comparison. Mr. Sussman stated that the Town of La Plata's Sign Ordinance is available online and he will also email his highlighted copy of Reed v. Town of Gilbert.

Without further comment, Chairman Pellegrino requested a motion to adjourn. Thomas Blake made a motion to adjourn. Wayne Higdon seconds the motion. Motion carried. Chairman Pellegrino adjourned the meeting at 7:51pm.

Submitted by:



Andrea Brady
Town Clerk

1/16/19
Date