

**KENT PLANNING COMMISSION
BUSINESS MEETING
JUNE 20, 2023**

MEMBERS PRESENT:

**Amanda Edwards
Jeff Clapper
Derek Salustro
Nasar Matar**

STAFF PRESENT:

**Bridget Susel, Community Development Director
Eric Fink, Assistant Law Director
Tim Sahr, Development Engineer
Kailyn Cyrus, Development Planner**

I. Call to Order

Ms. Edwards called the meeting to order at 7:00 p.m.

II. Roll Call:

Mr. Clapper, Ms. Edwards, Mr. Matar, and Mr. Salustro were present. Alyssa Trivigno was absent. Staff reported there was no notification prior to the meeting of the absence.

III. Reading of Preamble

Ms. Edwards read the Preamble, which describes the purpose and procedures of the Planning Commission as well as the applicant's right to an appeal.

IV. CRA Appointment

Ms. Susel explained that the Planning Commission has an appointment to the Community Reinvestment Area Review Board, which only meets once a year. She further explained the Board and their responsibilities and duties and asked the Board Members for a volunteer.

Ms. Edwards volunteered herself to be the Planning Commission appointee and the action was approved unanimously.

V. Administration of Oath

Mr. Fink instructed those members of the audience wishing to be heard on any of the cases presented at this meeting to raise their right hand. Mr. Fink administered the Oath, "Do you solemnly swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God? Please say "I do." The participants responded, "I do."

VI. Correspondence

None.

VII. New Business

**A. PC23-005 SCHRAMM SIGNS, MARCOS PIZZA
1629 EAST MAIN STREET**

The applicant is seeking approval of a Comprehensive Sign Plan . The subject property is zoned C-R: Commercial Residential District.

Mr. Sahr introduced the case as presented in the Staff Report. He stated that the site is accessed from E. Main St. and Dale Dr., and it is bordered by residential uses to the north and commercial uses on all other sides. He stated that the applicable code sections for this case are: 1109.11 and 1111.02(B) of the Kent Codified Ordinances. He stated that the current owner has been making improvements to the building since purchasing the property in 2017. He stated that the western side of the building is occupied by the Pho King restaurant, which has a building sign. He explained that a Comprehensive Sign Plan is needed in order to allow for multiple building signs to accommodate multiple lessors such as Marcos Pizza. Mr. Sahr noted that there are two pole signs on the property: one sign that is currently being used for Pho King and another that has been out of use for an extended period of time and is classified as an abandoned pole sign, which must be removed pursuant to Zoning Code Section 1109.08(F) of the KCO. Mr. Sahr further reviewed the purpose of a Comprehensive Sign Plan and listed the required standards. He stated that Architectural Review Board was not required for this project. He stated that if the Planning Commission grants the Comprehensive Sign Plan, no zoning variances will be required. He stated that staff finds that the proposed Comprehensive Sign Plan is in accordance with the intent of the Zoning Code Section 1109.11.

Dean Schramm, Schramm Sign Company, 41431 Schadden Rd, Elyria, Ohio, stated that Matt Baker with Marco's Pizza could not be present tonight. He stated that he did not discuss the abandoned pole sign in his preliminary sign plan because Mr. Baker is still trying to discuss the options for the one pole sign that is allowed at the site. He stated that he feels that it makes sense to advertise all of the tenants on one sign rather than adding a ground sign in addition to the one allowed pole sign. He stated that until a decision is made regarding the pole or ground sign, they would like to go forward with the building signage so that Marco's can have a sign.

Ms. Susel advised the applicant that he would need to clarify that the existing pole sign that is currently in use for Pho King is part of the Comprehensive Sign Plan and will stay because if the Comprehensive Sign Plan is approved as submitted, the allowed pole sign will need to be removed if it is not part of the Comprehensive Sign Plan.

Mr. Schramm stated that it is his opinion that it is illegal for the City to require the removal of the pole sign, according to his understanding of the Ohio Revised Code, as it pertains to retroactive zoning. He stated that he removed the abandoned pole sign and the proposed ground sign from their proposal for this meeting. He stated that Mr. Baker is unclear what his legal rights are or how he wants to pursue it. He stated that he had proposed using the old pole sign to create a ground sign but because of other sign stipulations and because he didn't know Pho King had their own pole sign, he removed it from the plan so as not to waive Marco's rights based on something they aren't ready to attack. He stated that if the Board cannot pass a partial Comprehensive Sign Plan for the building only, then he was misled because that is what he is here for.

Mr. Fink stated that he agrees that the law states that the City cannot remove an existing sign, but in his client's situation, it is an abandoned sign, and the law does allow for it to be ordered to be removed. He stated that the western sign is still in use and is not being ordered to be taken down. He stated that what Ms. Susel is suggesting, is for Mr. Schramm to incorporate the current western sign into the Comprehensive Sign Plan.

Mr. Schramm stated that he would be agreeable to that if there is a caveat that says that the approval of the Comprehensive Sign Plan will in no way impact the old existing abandoned sign. He questioned if a sign is deemed to be abandoned if a tenant moves out and the sign is not used in 90 days.

Mr. Fink and Ms. Susel both replied yes.

Mr. Schramm argued that this goes against the Ohio Revised Code and the City will lose that fight as it has happened in other communities. He stated that it is his perception that the tenants have a right to that sign. He stated that he has told the tenant that he would be better off with a plaza sign. He suggested moving forward with just the building signs.

Mr. Fink stated that Mr. Schramm has the right to ask that the case be continued. He stated that he does not believe that the case law or the statutory law would support the idea that the City can't order the elimination of an abandoned sign. He stated that the City of Kent is a charter community that gives us additional rights as to what it can control with its zoning. He stated that a Comprehensive Sign Plan by its very nature, is for the entire parcel, not just for the building or another portion. He stated that if Mr. Schramm would like to include the western sign as part of the plan, then he can move forward with this project today but that will mean the elimination of the eastern sign. He stated that if the applicant still believes that the eastern sign is essential to his client's development, then he will most likely want to withdraw or continue the application, but that is his choice. He stated that he doesn't believe that the City will agree to anything that includes the continuation of a use that has been deemed non-conforming.

Ms. Susel stated that they are trying to explain that in order to keep the existing pole sign currently in use right now, it needs to be incorporated into the Plan and then later if the owner decides to do a monument sign, they will submit for an amended Comprehensive Sign Plan.

Mr. Schramm stated that he understands but feels that he can't go forward with this until they decide on what they want to do with regards to the pole and monument signs.

[A 3-minute recess was given so that Mr. Schramm could call his client to see how he wants to proceed. He was unable to reach his client.]

Mr. Schramm stated that they will need to continue the case because the Board will not pass a partial plan. He asked if a temporary sign could be used in the interim.

Ms. Susel stated that a temporary banner can be issued for 45 days and then renewed for another 45 days. She asked when Mr. Schramm would like to come back before the Board; July 11 or 18.

Mr. Schramm requested July 11, 2023.

Ms. Edwards stated that Case PC23-005 is going to be continued at the applicant's request to the July 11, 2023 meeting.

**B. PC23-006 CITY OF KENT
TEXT AMENDMENTS TO THE ZONING CODE**

The proposed Zoning Code Text Amendments are being forwarded to the Commission for review and comment. Chapters 1105, 1106, 1109, and 1111.

Ms. Susel stated that the updated Zoning Code needs adjustments to some of the language to add more specificity.

Mr. Sahr stated that retail establishments such as CVS use less than 1% of their shelf space for sexually oriented products in the City of Kent. He stated that it is up to the Planning Commission to decide how much space should be given to set boundaries for this purpose.

Ms. Susel suggested having both a percentage as well as a not to exceed a certain square footage in Chapter 1105.57(A)(2) so that the calculation works for both large and small buildings; possibly 1% or maximum of 30 square feet. She stated that this is a specially permitted use and how it is defined needs to be addressed.

Ms. Edwards stated that she is good with staff's recommendations.

Mr. Clapper stated that he is also good with staff's recommendations.

Ms. Susel stated that changes to lighting needs to be made as staff has received complaints. She stated that currently the standard is 0 illumination at the lot line, which works fine for commercial parking areas, but addressing the lighting for residential uses needs some adjustments. She explained that changing Chapter 1106.07 (A) title to "Area Lighting" would include any area lighting that is outside. She stated that the goal is to eliminate light trespass at the property line so they also suggest changing "minimizes" to "eliminates" in (A)(2).

She stated that lighting for advertising also needs to be addressed such as the LED string lights that are very bright and used in front display windows. She stated that staff is suggesting adding language to Chapter 1109.09 (H)(2) "lighting for advertising and/or conspicuous purposes is prohibited except where such lighting is approved by the Community Development Department as part of a sign". She explained that this would eliminate the string rope lights that are too bright and distracting. She stated that staff will likely first ask that the illumination be reduced to make them less distracting.

She further explained that Chapter 1109.09(H) allows window signs, but some establishments have an excessive amount of window signs. She stated that staff is recommending limiting the internally illuminated window signs to no more than 2 signs per tenant and the lighting must be fixed lighting (no flashing).

The Board members didn't have any comments or issues with the proposed text amendments to address the sign and lighting concerns.

Ms. Susel stated that staff is recommending a text amendment to Chapter 1106.10 with regards to accessory structures. She stated that the proposed amendment adds the language that limits a property to two detached accessory structures.

Mr. Sahr added that structures under 200 square feet do not require a building permit; only a \$25 zoning permit.

Mr. Fink stated that the proposed change would not preclude someone from asking for a variance to that language.

The Board members were agreeable.

Ms. Susel stated that changes to the Chapters 1111.02(1) and (2) Application Procedures for Planning Commission sections of the Zoning Code will allow the Community Development Department to evaluate the application and specify what documentation is needed.

The Board members were agreeable.

MOTION: *In Case PC23-006, Mr. Clapper moved that the Planning Commission recommend that City Council hold a public hearing and review the proposed text amendments to Zoning Code Chapters 1105, 1106, 1109, and 1111 with the intent to adopt the changes.*

The motion was seconded by Mr. Matar.

The motion carried 4-0

C. DESIGN GUIDELINES WORK SESSION

The Design Guidelines work session has been rescheduled to the meeting on July 11, 2023 due to a printing error with the document.

VIII. Minutes

MOTION: *Mr. Clapper moved to approve the August 16, 2022 Planning Commission minutes as presented. Mr. Matar seconded the motion. The vote carried 3-0-1. Mr. Salustro abstained.*

MOTION: *Mr. Clapper moved to approve the October 18, 2022 Planning Commission minutes as corrected. Mr. Matar seconded the motion. The vote carried 3-0-1. Mr. Salustro abstained.*

MOTION: *Mr. Clapper moved to approve the November 15, 2022 Planning Commission minutes as presented. Mr. Matar seconded the motion. The vote carried 3-0-1. Mr. Salustro abstained.*

MOTION: *Mr. Clapper moved to approve the March 7, 2023 Planning Commission minutes as presented. Mr. Salustro seconded the motion. The vote carried 4-0.*

MOTION: *Mr. Clapper moved to approve the April 18, 2023 Planning Commission minutes as presented. Mr. Salustro seconded the motion. The vote carried 3-0-1. Mr. Matar abstained.*

IX. Other Business

None

X. Adjournment

MOTION: *Mr. Clapper moved to adjourn. The motion was seconded by Mr. Salustro. The motion carried 4-0. The meeting adjourned at 8:10 p.m.*