

MANISTEE CITY PLANNING COMMISSION

70 Maple Street
Manistee, MI 49660

MEETING MINUTES

November 17, 2005

A Special Meeting/Public Hearing of the Manistee City Planning Commission was held on Thursday, November 17, 2005 at 7:00 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

MEMBERS PRESENT: Maureen Barry, Sara Bizon, Tamara Buswinka, Greg Ferguson, Ray Fortier, Christa Johnson-Ross, Tony Slawinski, Mark Wittlief and Roger Yoder

MEMBERS ABSENT: None

OTHERS: Jay Kilpatrick (Williams and Works), Mitch Deisch (City Manager), Cyndy Fuller (City Council), Dave Carlson (DDA), Tom Amor Jr. (Amor Sign Studios, Jon Rose (Community Development), Denise Blakeslee (Planning & Zoning) and Others

Meeting was opened at 7:00 p.m. by Chairman Yoder.

PUBLIC HEARING:

Review and Recommendation of New Zoning Ordinance and Map

Review and Recommendation of the Zoning Ordinance and Map. Jay Kilpatrick, Williams and Works gave a presentation on the process used for the Zoning Ordinance Re-write. The presentation included:

- Findings from Initial Review of Ordinance

- What Local Officials Said

- Results from the initial Meeting in August 2004

- Results from the Second Public Meeting in August 2005

- Formatting used in Ordinance

- Key Changes including:

 - Key Street Segments

 - More Flexibility for Planned Unit Developments

 - Accessory Building Standards

 - Increase in Building Height Standards

 - Flexibility for Dimensional Standards

 - Standards for Minor and Major Home Occupations

- Standards for Home Based Businesses
- Non-Conforming Standards
- Sand Mining Standards that include Reclamation Standards
- Mechanism to preserve View Corridors
- Manistee Lake Protection Measures
- Reasonable Parking Standards
- Waterfront District recognition
- Multiple Housing within a PUD
- Wind Energy System Standards
- Thermal Plum Standards for Power Plants
- Encourage Innovation in Job Creation
- Planning Commission removal of Council Oversight Standards for Special Uses

Chairman Yoder asked if there were any questions/concerns from the members of the audience.

Tom Amor Jr., Amor Sign Studios, 443 Water Street - Mr. Amor read a prepared statement (attached).

There being no other comments Chairman Yoder closed the Public Hearing at 7:45 p.m.

Planning Commission Recommendation to City Council

Discussion from the Planning Commission included:

- Comments from Amor Sign Studios prepared statement

- Landscaping Requirements for Site Plan

- Temporary Activity Permits

- The final draft will either change approval from Planning Commission to City Council or remove the section completely.

MOTION by Ray Fortier, Seconded by Tony Slawinski that the Planning Commission recommend to City Council the adoption of the New Zoning Ordinance and Map prepared by Williams and Works.

With a roll call vote this motion passed 9 to 0.

Yes: Johnson-Ross, Bizon, Ferguson, Barry, Fortier, Wittlief, Buswinka, Yoder, Slawinski
No: None

APPROVAL OF MINUTES:

Planning Commission Meeting of November 3, 2005

MOTION by Ray Fortier, seconded by Tony Slawinski that the minutes of the November 3, 2005 Planning Commission Meeting be approved.

With a roll call vote this motion passed 9 to 0.

Yes: Barry, Bizon, Buswinka, Ferguson, Fortier, Johnson-Ross, Slawinski, Wittlief, Yoder
No: None

NEW BUSINESS:

None

UNFINISHED BUSINESS:

None

OTHER COMMUNICATIONS:

Reminder that there is a Workshop on Wednesday, November 30th from 7-9 p.m. at the Manistee County Road Commission Building.

CITIZEN QUESTIONS AND CONCERNS:

None

WORK/STUDY SESSION:

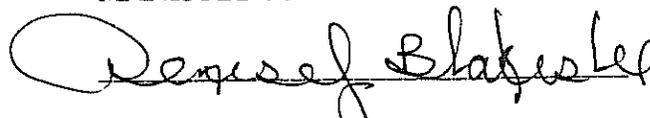
None

ADJOURNMENT:

MOTION by Tony Slawinski, seconded by Ray Fortier that the meeting be adjourned. Motion passed unanimously.

MEETING ADJOURNED AT 7:55 P.M.

MANISTEE PLANNING COMMISSION



Denise J. Blakeslee, Recording Secretary



443 Water Street ~ P.O. Box 433 ~ Manistee, MI 49660 ~ 231.723.8361 ~ 800.922.2667 ~ FAX 231.723.9365
www.amorsign.com

November 17, 2005

City of Manistee Planning Commission
70 Maple Street
Manistee, MI 49660

Dear Members of the Planning Commission:

Thank you for asking for our comments about the final draft of the proposed zoning ordinance, namely the articles relating to signs. The following comments are broken down into three areas: (1) Primary objections to the draft ordinance, (2) Secondary objections to draft ordinance, and (3) Commentary on the process.

First, here is a list of our primary objections.

- **Electronic Variable Message Signs.** The draft ordinance introduces two definitions of electronic variable message signs: Electronic Message Boards and Electronic Signs. Then, it prohibits all Electronic Message Boards. It also sets an interval limit on Electronic Signs which restricts message changes to no more than one change per hour. This basically outlaws all electronic signs. We suggest one definition for Electronic Variable Message Signs as, "**Any sign, display, device or portion thereof with lighted messages that change at intermittent intervals by electronic process or remote control. Electronic Variable Message Signs are not identified as rotating, revolving, or moving signs.**" This definition avoids confusion that the split definition creates. This is the definition that 75 business people supported by petition in July 2003. We also ask that Electronic Message Boards be removed from the list of prohibited signs. We agree that Electronic Variable Message Signs should be prohibited in the Historic District and residential districts, but agree with business people that this type of signage and technology should be allowed in commercial and industrial districts.
- **Pole Signs.** The draft ordinance limits the allowable square footage for pole signs in commercial and industrial districts to 64 square feet. We suggest that this be changed to 80 sq. ft. to allow larger letter sizes which are easier and safer to read. (The present ordinance allows pole signs up to 100 square feet on a typical 150' lot, and even larger square footages on larger lots.) In our survey of 43 existing signs along US-31, 19 existing pole signs (44%) would become nonconforming under the draft ordinance. Changing the limit to 80 sq. ft. would create only 13 nonconforming signs (30%). This is still a reduction in allowable square footage from the present ordinance. An 80 sq. ft. limit is reasonable and practical. It will allow business people to safely and aesthetically identify their businesses to the traveling public. (Also, table 2100-1 Section 2108 omits the 600 feet provision for an additional pole sign.)

Next is a list of secondary objections.

- **Projecting Signs.** The draft ordinance allows only 16 square feet for a projecting sign. While we agree this is appropriate on River Street and in the historic district, we disagree with that limitation in other commercial and industrial districts. We suggest 32 sq. ft. in those areas where projecting signs are allowed.

Established 1946

 **IMAGEPRO**
PROFESSIONAL VIDEO PRODUCTION Affiliates



November 17, 2005

City of Manistee Planning Commission

- **Multi-tenant Signs and Shopping Centers.** The draft ordinance makes no distinction between parcels with one tenant and parcels with multiple tenants. We suggest that wording be added to the draft so that pylon signs in commercial and industrial districts, on parcels with multiple tenants, be allowed 24 additional square feet per tenant. Building signs seem to be addressed adequately with the 1.5 square feet per linear foot allowance.
- **Section 2101 - Procedures. Item A-7.** This item gives the Administrator the right to forward "any sign permit application" to the Planning Commission for review and approval. This item implements a system of "prior restraint" on speech by giving the Administrator "unbridled discretion" over which applications to forward, and the ability to create "arbitrary suppression" because there are no time limits spelled out. Legal Resource Group pointed these items out in their summary of the draft code presented to the Planning Commission in May, 2005.
- **Section 2000 - Purpose. Item C.** This item states that a primary purpose of Article 21 is to "**Restrict signs and lights which overload the public's capacity to receive information, which increase the probability of traffic congestion and accidents by distracting attention or obstructing vision, and which are deemed to detract from the aesthetics of the community**". We think this item should be removed from the ordinance. Sign laws are different from other building and zoning laws because signs are a form of speech and speech is protected by the First Amendment of the Constitution. Legal Resource Group in their summary of the draft pointed out that courts have ruled that municipalities "must further substantial government interest" if they are going to restrict free speech. If the city is going to restrict speech with a traffic safety justification, the courts have said that the burden of proof is on the city. Opinions about a sign's effect on traffic safety are not an appropriate justification to restrict free speech. Likewise, courts have ruled that aesthetics is not an appropriate justification to restrict free speech. "One man's vulgarity is another's lyric."

Finally, here is our commentary on the sign ordinance rewrite process.

We are generally dissatisfied with this rewrite process, and for us the process goes back to 2003. It was then that we (and our competitor) came before the Planning Commission, the Joint Ordinance Review Board, and finally the City Council requesting sign permits for two electronic variable message signs. The reason all these steps were required was because the existing sign ordinance was vague when it came to the definition of electronic message centers. One sign was allowed and one sign was denied. The justification given by the city council for allowing one sign but denying the other was twofold. First it was reasoned that the Convention and Visitor's Bureau promotes the whole county and does not sell anything at its site, therefore its message was somehow more noble than a mere individual business like Carriage Inn trying to advertise itself. Second, the council expressed its opinion that the S-curve in front of the Carriage Inn was somehow less safe than the busy First Street intersection.

At that time, we also offered a definition of Electronic Variable Message Signs that was supported by 75 business people as an amendment to the sign ordinance. This was also denied because the city anticipated rewriting the entire sign ordinance. The council did not want to act without public input on the issue of Electronic Variable Message Signs. One bright spot for us during this



November 17, 2005

City of Manistee Planning Commission

process was when Councilman Bill Shales made a point of requesting that AMOR SIGN be invited to participate in the sign ordinance rewrite process. He complimented our participation in the previous sign ordinance writing process and recommended that we be included this time.

Then came the Tondu project and the zoning ordinance project was put on hold for a year. In that time period we had customers who would have liked to purchase LED electronic signs in the City of Manistee. One was denied a permit. Others we would tell to be patient and wait for their chance to participate and voice their opinion in the sign ordinance process. And others still, were afraid of possible repercussions by the city if they were to pursue a permit for an electronic sign.

Unfortunately, the public was never really given notice when the sign ordinance was being worked on. Yes, there were notices that the planning commission was holding work sessions on the entire ordinance, but never was a notice given for work sessions seeking input on the draft language for a sign ordinance. Never was there an open meeting advertised for discussion on the issue of Electronic Variable Message Signs. The wording that prohibits Electronic Message Boards and gives interval limits on Electronic Signs was crafted without input from the citizens of Manistee. In fact, it was crafted somehow outside of the work sessions that AMOR SIGN was invited to.

Which leads to another disappointment for us in this process, the work sessions. Whenever there was a work session on signs, we rarely had adequate notice. Other than the first notice in which we had a week, we usually had less than one week to prepare. In fact, one notice was hand delivered to us the night before a meeting. At one of the work sessions there was some discussion between the staff and the planning commission about what was to be accomplished at the meeting. The planning commission view was that details should have been hammered out before such a meeting. We came with the understanding that the purpose of the meeting was to work out the details. It was also explained to us that a "tight budget" prevented the number of meetings that were necessary. Somehow during this process it felt like AMOR SIGN was an adversary in the process instead of a valued contributor. Our donation of the legal analysis by Legal Resource Group was basically ignored and not even considered worth the time for the City Attorney to read. Because we had no input into the crafting of the draft, all of our suggestions were given after the draft and became perceived as attacks.

A sign ordinance should seek to balance the views of two primary interest groups, business owners and citizens. Two secondary influences on the sign ordinance are sign companies and government officials who have to work with the ordinance on a regular basis. The most controversial issue in our existing ordinance over the last ten years has been Electronic Variable Message Signs. Three years ago our City Council wouldn't amend the definition for these signs without public input. Now, Manistee has a draft ordinance that was written by government officials without any public input. It's an ordinance written by people who happen to have an opinion that Electronic Variable Message Signs are undesirable and who seem to have no time for the opinions of people that differ with them.

Please consider changing the draft ordinance to reflect the changes spelled out above.

Sincerely,
AMOR SIGN STUDIOS, INC

Thomas E. Amor and Thomas H. Amor

