



MEMORANDUM

TO: Amber Moore Smith
Robert Medler
David Godlewski

DATE: June 21, 2017

FROM: Scott Clark
Interim Director, Planning and
Development Services

SUBJECT: Response to items listed in the June 15, 2017 letter from the Metropolitan Pima Alliance, Tucson Metro Chamber, and the Southern Arizona Home Builders Association

On June 15, 2017, Metropolitan Pima Alliance (MPA), Tucson Metro Chamber (TMC), and the Southern Arizona Home Builders Association (SAHBA) submitted a letter to the City of Tucson regarding their recommendations to the June 2, 2017 Draft of the City of Tucson Sign Code. Planning and Development Services Department (PDSD) has reviewed the letter and its recommendations. Below are PSDS's responses to the issues raised. The June 2, 2017 draft sign standards referenced in the letter is on-line and will be presented at the Planning Commission and Citizens Sign Code Committee's joint public hearing on June 21, 2017.

BACKGROUND

Lynne Birkinbine, Deputy Director of PSDS, responded in writing on June 15, 2017 to the previous letter dated February 23, 2017. In that letter, she recounted some historical information about the sign code public review process. This letter responds to the items raised in the MPA/TMC/SAHBA (Letter) dated June 15, 2017.

7.A.1.1. PURPOSE – The Letter recommended the addition of three items to the purpose statement.

Response: The current purpose statement was discussed at length, compromises were made on the language and the current draft was voted on by the Joint Subcommittee. The key issues related to the *Reed vs. Town of Gilbert* case involved first amendment rights, property rights, visual environment and public safety. Issues within the June 15th Letter appear to relate to enhancing economic development issues. Staff has no objection to adding the additional purpose statements, and defers to the discretion of the Joint Planning Commission (PC) / Citizen Sign Code Committee (CSCC) to consider the proposed additional purpose statements.

Regarding expedited review, the City has a Timeframe Policy that is used to guide timely responsiveness to applicants for all types of permits. An applicant applying for a sign permit under the general standards will most likely benefit by 7A Sign Standards since many of the current provisions causing variances or other types of delays should work more smoothly with the process improvements recommended in the June 2 Sign Standards draft. Additionally, the Design Option is established to reduce delays. The SDRC can only continue a case one time and then must make a recommendation. There is a pre-application meeting with the SDRC available to assist an applicant in preparing an application. In the case where there is no quorum of the SDRC, the PSDS Director can request the Design Professional make a recommendation.

7.A.6.4.C. SIGN COPY – The Letter recommended a one-minute change rate.

Response: The Joint Subcommittee and the CSCC have debated this issue. The final recommendation was for a change from a one-hour change rate to a five-minute change rate, which is reflected in the June 2 draft. Staff has no objection to either five-minute or one-minute rate-of-change.

7.A.6.5.A. SIGN HEIGHT MEASUREMENT – The Letter recommends using a single point measured using a 5’ radius from the center of a sign.

Response: Staff’s understanding of the recommended language from the Letter is an applicant can choose any point from the highest to lowest point to place the sign structure within the five-foot circumference. The June 2 Sign Standards draft suggests that a sign is measured using an average finish grade that determines a single point. The proposed language utilizes a series of points measured five feet from the bottom of the sign at five foot intervals to determine the average finish grade. The June 2 Sign Standard draft language is consistent with how PDSO measures average finished grades elsewhere in the UDC. Staff recommends keeping the current proposed language in the June 2nd draft.

7.A.6.9.C.1 & E.1 STREET AND BUILDING FRONTAGES – The Letter recommends creating a process for which the zoning administrator may approve a transfer in whole or in part from one street to another, when it meets specific criteria.

Response: In the June 2 draft, the Sign Design Option or the Singular Design Option can address this issue. There may be merit in the proposal, but staff believes the concept requires more input and review. For example, the zoning administrator may not be the appropriate person to decide this issue and there may need to be a more developed finding involved in the decision. Perhaps this issue could be reviewed by the Sign Design Review Committee (SDRC) as part of its authority to review sign text amendments for the Planning Commission during the 18-month sunset period.

7.A.6.10. SIGNS IN OR OVER PUBLIC RIGHTS-OF-WAY – The Letter recommended that clarification be added to allow Mayor and Council and/or the City Manager the ability to grant special licenses for signage in certain circumstances.

Response: Guidance from counsel suggest this clarification may not be advisable. However, it could be an issue that can be reviewed by the SDRC during the 18-month sunset period.

7.A.6.11. PREMISE – The Letter recommended adding the language “parcels or ownerships” to the first sentence of the premise definition.

Response: The premise definition was discussed by the Joint Subcommittee and the Citizens Sign Code Committee. Both groups voted to keep the June 2 draft wording. Premise works together with the freestanding sign spacing provisions. Staff is concerned that adding these words, “parcels or ownerships,” will make sign spacing an ad hoc approach and encourage parceling a property to increase freestanding signs. There may be some merit to the proposed idea but staff believes more discussion and review are needed. The relationship of freestanding sign spacing and premise can be monitored during the 18-month sunset period to see if the Premise or the spacing provision needs to be modified.

7.A.6.12. ILLUMINATION – The Letter recommended removing the language “unless otherwise prohibited in the sign standards.”

Response: The phrase noted above is the current regulation from the existing Chapter 3 Sign Code. The removal of the text, “unless otherwise prohibited in the sign standards,” could lead to less ability to regulate illumination and light pollution. This idea was presented to and discussed by the Joint Subcommittee and was

not supported. The Outdoor Lighting Committee is studying sign illumination currently. Some type of change in how illumination is regulated may be coming in the future. As for now, staff supports the current language.

7.A.7.1. MASTER SIGN PROGRAM – PERMANENT SIGNS – The Letter recommended adding the language “flexibility, encourage development in designated growth areas” to the Master Sign Program purpose.

Response: The term ‘designated growth area’ is not in the Unified Development Code as a regulated area with specific boundaries. The term would create an undefined area with undefined boundaries. If included it would require interpretations or a reference to Plan Tucson. It was not discussed up to now nor during the Joint Subcommittee public review process. Staff believes this idea may need more time to be reviewed and discussed before taking further action. It could be something reviewed during the 18-month sunset period.

7.A.7.1.E.3. Wall-mounted Signs – The Letter recommended adding language clarifying the use of publicly recognized business logos.

Response: Staff has no objection to this language. It is consistent and similar to a federally registered trademark and would be allowed as a practice of free speech. The current June 2 draft mentions registered trademarks but is not intended to prohibit logos. Staff is willing to add language to recognize business logos either in the draft or as part of the preparation of the PDS application checklist.

7.A.7.1.F. Best Practice Option – The Letter recommended using a project in the City of Tucson Metropolitan Statistical Area as a best practice option.

Response: The June 2 draft refers to using an adopted Master Sign Program within the City if there is supportive documentation. Regarding Master Sign Programs outside the City, there is section 7.A.7.a.F.1.e, that allows an applicant to present the Design Professional with a Master Sign Program. The Design Professional can verify, for example at a pre-application meeting, that the example Master Sign Program is consistent with the purpose statement and design standards of the City’s sign standards.

7.A.7.1.G. Findings – The Letter recommends changing the language of several items in the findings section.

Response: Staff does not recommend using the word, ‘should’ in a finding. In consulting with our legal advisors, staff’s position is a finding needs to be definitive and factual. A finding may be substantive information if an application is appealed to either the Board of Adjustment or Mayor and Council. Further, it could be an issue if the case went to court.

7.A.7.1.E. MASTER SIGN PROGRAM – PERMANENT SIGNS – Design Standards - The Letter recommends the deletion of sections 7.1.7.1.E.1.a, .b, & .c and the addition of a 100% cap to the increase of sign height.

Response: The Joint Subcommittee and Citizens Sign Code Committee reviewed and voted on the issue and decided to recommend keeping the dark skies review for design option signs and requiring uniformity and proportionality in the design of sign copy lists. This provision does not limit a business from using federally registered trademark sign copy or sign copy colors.

In relation to sign caps for the Master Sign Program, the Joint Subcommittee voted and recommended the cap as recommended by the Letter. The Citizens Sign Code Committee decided to recommend no cap. The reasoning was that if someone exceeded the cap even by a small amount they would have to go to the Board of Adjustment for a variance. The CSCC believed the SDRC represented the best group to decide on what sign size met all the design standards. The intent was not to allow giant signs but to acknowledge that a given site may have features that would support a larger height or area than a cap and the SDRC was preferable to the

Board of Adjustment to evaluate the situation. It is a simple change to add the 100% of current signs as a cap as the Letter states and at the joint public hearing a motion by a commissioner can allow for a change to be made.

7.A.7.2.B. APPLICABILITY – The Letter recommended that Applications under the Master Sign – Portable Sign program that comply with standards in place at the time of new code adoption shall receive automatic approval.

Response: Staff has discussed this matter with our legal advisors and we have concerns about this provision. It appears to create an arbitrary standard without any sign clutter controls. It can be argued that this proposal undermines the purpose statement and potentially reverts to a non-content neutral sign category creating a potential Reed compliance issue. Further, it would potentially override both the June 2 draft’s portable sign general standards and the Master Sign – Portable Sign Program by making both irrelevant. There may be other potentially unintended consequences that would occur. Staff believes the June 2 draft has a sound legal strategy and allows flexibility to property owners while understanding the need to operate in a content-neutral environment.

7.A.9.2. CHANGE OF USE – The Letter recommends adding Medical / Health-related to categories.

Response: Staff has no objection, but it may have unintended consequences. It may be more restrictive and needs more vetting. This regulation comes from existing language in the Chapter 3 Sign Code and is based on occupancy categories used in building codes. Any change in this section would have to be consistent with the occupancy categories used in those building codes. Plan Tucson has policies that call for the reduction of non-conforming signs. Currently, Medical / Health-related uses fall under both the Institutional and Office category.

7.A.10. SIGN TYPES AND GENERAL STANDARDS – The Letter recommends adding clarifying language as to when the standards of special districts may be varied.

Response: Staff agrees that a clarification would be helpful in clarifying the relationship between a Master Sign Program and a sign special district. Adding the language, “unless stated herein” or similar language at the end of the first paragraph would clarify that a special districts’ provisions do not limit an approval of a Master Sign Program. Any additional changes may require more time to review and discuss during the 18-month sunset period.

7A.10.1. GENERALLY PERMITTED SIGNS – The Letter recommends the deletion of language related to the 30-foot setback from residential property or sound mitigation barrier for two-way communication devices.

Response: The Joint Subcommittee and CSCC recommended that this provision be amended to state a 30-foot setback from residential property or a sound mitigation barrier such as a wall to separate the sign type with a two-way communication device from residential property. Staff believes this provision is a reasonable way to mitigate noise when adjacent to residential property but it can be reviewed during the 18-month sunset period.

7A.10.2. PERMANENT SIGNS – ZONE CATEGORY STANDARDS - The Letter recommends businesses allowed within residential zones to be considered as part of the General Business category.

Response: Staff assumes this provision refers to non-residential uses (schools and churches) and not businesses (home occupation). This issue was reviewed by the Joint Subcommittee and has been presented to the Planning Commission and Citizen Sign Code Committee at study sessions. The committees’ votes reflect a compromise of allowing 100sf of signage for non-residential uses on arterial or collector streets but to require the current 20sf provision for non-residential uses on local streets. This change should reduce the need for churches to obtain variances and further the Master Sign Program is also available to them. If the June 2 language is shown to be still inadequate, that information can be reviewed during the 18-month sunset period.

7A.10.2. PERMANENT SIGNS – ZONE CATEGORY STANDARDS - The Letter recommends creating a process for which the zoning administrator may approve a transfer in whole or in part from one street to another, when it meets specific criteria.

Response: Please refer to our response above for **7.A.6.9.C.1 & E.1 STREET AND BUILDING FRONTAGES**. This item needs more review possibly during the 18-month review period.

7A.10.2. PERMANENT SIGNS – ZONE CATEGORY STANDARDS – The Letter recommends the deletion of language related to illumination in the Non-Residential (O-1) Zone Category.

Response: This provision is from the existing Chapter Three Sign Code and generally supports the purpose statement regarding dark skies protection. Staff believes deletion of existing illumination standards needs a larger context of whether this provision is appropriate here or there should be cross-reference to the Outdoor Lighting Code or another response. This item could be reviewed during the 18-month sunset period.

7A.10.2.C. PERMANENT SIGNS – The Letter recommends the deletion of language that prohibits access signs in single family residential and non-residential zoning categories.

Response: This provision is from the existing Chapter Three Sign Code. There may be a reason to modify the provision but further discussion and review should take place. Further review and discussion could be done during the 18-month review period.

7A.10.2.C. PERMANENT SIGNS – The Letter recommends the deletion of language that regulates the movement of signs from one street frontage to another.

Response: Please see our response above to **7.A.10.2.C. PERMANENT SIGNS**. In short it is an item that can be monitored during the 18-month review period.

7A.10.3. PORTABLE SIGNS – The Letter recommends adding two new provisions related to portable signs. One is allowing additional portable signage based on street frontage and the other is based on the amount of building permits.

Response: This language was not vetted in the public review process as an alternative to the Portable Master Sign Program. It has been understood that the current Chapter Three Sign Code after the *Reed* decision allows unintentionally up to 900 square feet of sign area and up to 17 signs on all properties within the City.

Because of the content-neutral standard required by the First Amendment, the June 2 draft's general standards attempt to weigh First Amendment rights with sign clutter management policy. It is understood that the goal of the draft sign standards was to accommodate property owners with signage rights similar to standards before the *Reed* decision but with the caveat, 'as is practical'. This statement means that the general standards should be as strict as possible to reduce sign clutter while accommodating First Amendment rights. At the same time, a Design Option for portable signs was established to allow the review and accommodation of special users of portable signs on a case-by-case basis. It also allows organizations to apply for a Design Option. Thus, an approved design template for portable signs may be used by an organization's members. The Joint Subcommittee and CSCC ultimately voted to support the provisions in the June 2 draft. There are stakeholders and members of the committees that prefer a more and less restrictive approach to portable signs than what is in the June 2 draft.

7A.11.1 SPECIAL DISTRICTS – The Letter recommends adding clarifying language stating that Master Sign Program applications take precedence over special districts.

Response: The following proposed language in Section 7A.7 addresses this “The master sign program includes all exterior permanent signs needs of a premise and provides a process where the provisions of Article 7A may be varied subject to the standards and findings below.” Additional clarifying language could be added to Section 7A.11 which states, “unless otherwise stated in Section 7A.7.”

7.A.11.3. SCENIC CORRIDOR ZONE (SCZ) DISTRICT – The Letter recommends deleting and changing several provisions of the Scenic Corridor Zone

Response: The Joint Subcommittee and the CSCC voted and recommended to keep the Scenic Route District standards the same as the Chapter Three Sign Code and transfer them into the 7A Sign Standards. The Scenic Route standards were revised about five years ago. The position of the above committees was with the amount of issues being addressed in this Sign Code project that this change was something that should be monitored during the 18-month period prior to the Mayor and Council voting on the status of a sunset date. The Master Sign Program is an alternative if the current Scenic Route District causes a problem.

2.2.12 SIGN DESIGN REVIEW COMMITTEE - The Letter recommends several additions to the composition of the Sign Design Review Committee.

Response: Staff has no objection to having similar professionals being part of the SDRC. Staff believes the current nine professional or stakeholders are sufficient and were reviewed and discussed during the public review process. Staff believes an additional sentence in the Composition section may address the Letter’s proposal. “The City Manager may appoint a professional or stakeholder with a similar background to the above listed committee members.”

11.4.7. DEFINITIONS – FREEWAY – The Letter recommends adding a new definition of freeway to the definitions.

Response: It is staff’s understanding that this proposal includes more than interstates and would include roads such as Oracle Road and Houghton Road. Staff believes this idea requires further public discussion before taking action on it. This review could be done during the 18-month sunset period.

11.4.17. DEFINITIONS – PARAPET – The Letter recommends changes to the definition of Parapet.

Response: Staff believes the status of parapets has been addressed by the re-defining of roof and wall signs. The Joint Subcommittee asked Commissioner Cook to review the issue with staff. Later the Citizens’ Sign Code Committee again discussed and reviewed Commissioner Cook’s proposal and voted to recommend the change in the draft. The June 2 draft reflects that change.

11.4.24 DEFINITIONS – WALL – The Letter recommends adding the language “including a parapet” to the definition of wall.

Response: Staff has no objection to this change, however it may be unnecessary. This issue was address through a change of the Wall Sign definition, with the help of Commissioner Cook.

Attachment:

A – June 15, 2017 MPA/Metro Chamber/SAHBA Sign Code Letter

B – June 15, 2017 Update on Items Listed in Feb 23 MPA-Chamber-SAHBA Letter

Cc:
Planning Commission
Citizens Sign Code Committee
Michael J. Ortega, P.E., City Manager
Albert Elias, AICP, Assistant City Manager

