

Tab 1

APPROVAL OF THE APRIL 13, 2011
SPECIAL MEETING MINUTES

**DRAFT SPECIAL MEETING MINUTES
CITY OF PALMETTO
PLANNING AND ZONING BOARD
APRIL 13, 2011 – 4:30 P.M.**

516 8th Avenue West
Palmetto, FL 34221

www.palmettofl.org
941-723-4570

PLANNING AND ZONING BOARD MEMBERS

ERIC GILBERT, Chair
JAMES PASTOR, Vice Chair
BARBARA JENNINGS-Absent

JON MOORE-Absent
CHARLIE UGARTE

STAFF

Mark Barnebey, City Council
Lorraine Lyn, City Planner
Linda Butler, Recording Secretary

Anyone wishing to speak before the Planning and Zoning Board must sign in prior to the meeting, stating name, address and topic to address. All comments will be limited to two minutes.

 **Swearing in of all parties speaking to the board.**

ORDER OF BUSINESS:

 **1. Approval of March 17, 2011 Meeting Minutes** Tab 1

Mr. Pastor moved to approve the March 17, 2011 meeting minutes. Mr. Ugarte seconded. MOTION CARRIED UNANIMOUSLY. Two members absent.

 **2. Amending the Sign Code** Tab 2

ORDINANCE NO. 2011-12

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE SIGN CODE, ARTICLE III OF CHAPTER 3 OF THE CODE OF ORDINANCES OF THE CITY OF PALMETTO ESTABLISHING NEW SIGN REGULATIONS FOR THE US 41/301 HIGHWAY INTERCHANGE INTERSECTION IN THE AREA AROUND 10TH STREET WEST BETWEEN 3RD AVENUE WEST AND HABEN BLVD.; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Ms. Lyn reviewed the staff report and also noted some of the City Commissioners concerns that were raised at the Commission workshop on April

4th 2011. Minutes from the Commission workshop are located on the City Web. Draft minutes were included in the Members' packets.

Ms. Lyn stated that this is a public hearing on an amendment to the sign ordinance within a limited area of the City defined as "interchange Intersection" defined as a special area along 10th Street W requiring more localized regulations. The amendment defines a new type of signs, "Freestanding Signs" and would allow freestanding signs up to 85 feet high and no more than 400 square feet in surface area.

Of all the businesses fronting 10th Street within the area defined as Interchange Intersection, there were/are 3 nonconforming signs (McDonalds, Wendy's and Burger King) or 9% of all the parcels. McDonalds sign was 90-95 feet high, Wendy's is 85 feet high with a surface area of 325 (14.7' by 22') square feet and Burger King's is 60 feet with a surface area of 256 square feet (16' by 16'). These signs are nonconforming because they predate the 1986 ordinance. Wal-mart's sign is conforming.

Staff supports the current sign ordinance. However, if a special "interchange intersection" district is identified along 10th Street West which is a 4 lane roadway, staff maintains a recommendation 60 feet maximum height based on the maximum height permitted in the CG and CC zoning districts. The proposed ordinance would allow an increase of height by 183% for single use commercial only, not including integrated shopping center.

Ms. Lyn stated a survey and matrix has been prepared for the businesses fronting 10th St. to show the sign heights, widths and surface areas.

Mr. Ugarte commented on the relationship of the speed of traffic to the height of the signs.

Chair Gilbert asked how staff came up with the 60 ft height proposal. Ms. Lyn stated she based her recommendation on the maximum height allowable in the CC and CG zoning districts.

Mr. Ugarte inquired about the Elliott's rule used to calculate the sign height. Chair Gilbert stated that these rules are used to determine the height of a sign based on an overpass, but not necessarily the rules applicable to determine the size or height that a sign should be based on the speed and number of lanes. Mr. Barnebey noted that the Burger King sign is visible from the west side of 10th St from around 3rd Avenue while the other signs are not.

Mr. Pastor asked what are the ramifications of changing the height of the signs and how does it affect the existing signs. Ms. Lyn stated that if the code is changed to allow 85 foot signs, all the existing signs will be conforming except that the code as written, speaks of freestanding signs and she had concerns about the existing pylon signs becoming non-conforming.

Mr. Barnebey stated that pylon signs are considered free-standing signs. If you change the height to a higher level, everyone that is higher than that height approved will be non-conforming and the businesses will have to be notified of their non-conforming status.



Chair Gilbert opened the public hearing.

Mr. Prather, Porges, Hamlin, Knowles & Prouty, P. A. stated that he is representing McDonalds Cooperation.

Mr. Prather gave a brief history of how McDonalds arrived at this point. McDonald's pole sign was erected and standing when the City adopted their present sign ordinance. The ordinance listed 30 ft maximum based on the zoning classification in that area for height and 40 sq. ft maximum for the surface area for the face. McDonald's sign was already at 90 + feet in the face at that time. In 1986 the City undertook legislation that clearly caused the signs to be non-conforming. The City had an amortization provision in the ordinance that states in 7 years after the adoption date of the ordinance, the signs will come into compliance Also in the ordinance was a registration requirement on the part of the City to identify and notify the sign owners of the non-conformity. From 1986 to July 1993 the City had available to it, the ability to enforce the amortization and cause the sign owner to come into conformity. Burger King came in after 1993 for a face change after the amortization period.

Mr. Prather stated they support the ordinance that is before the Board Members.

Mr. Prather read a memorandum in its entirety into the record (attached). Mr. Prather also noted that in 2008 McDonalds came before the P&Z for a conditional use permit and it was recommended for approval but the City Commission denied the application request.



Mr. Mike Motta, Regional Construction Manager for McDonalds stated signage is very important to the business; they rely heavily on visibility and due to the lost visibility since the removal of the sign, sales have been negatively impacted.

Mr. Ugarte asked how is a sign size determined, is there a formula used? Mr. Motta said they use a sign company to do a test by putting up a mock sign at a certain height and size.

Mr. Pastor asked whether the square footage would go down if the height is lower and will the formula still apply? Mr. Motta stated yes.



Mayor Bryant asked what the actual height of the overpass is. She recommended that the answer be provided before the next Commission meeting. The Mayor stated that the City Commissioners, in order to move forward, will need you to clarify your decisions and the guidelines you establish for a specific corridor that is closer to the interchange (as opposed to the eastern City limits).

She stated that it is very important to convey a business friendly atmosphere and thanked and commended the Board for their expertise.

Chair Gilbert stated that it is the Board's intent to set a business friendly atmosphere. With the amount of traffic that travels US 41, it is important to have tall signs for visibility. If the signs are not visible, people won't stop and revenue is lost for the City.



Chair Gilbert closed the public hearing.

Mr. Ugarte stated he agreed with Mr. Prather comments. He indicated that at the last meeting, the Board established and agreed upon this area being a special district. Different criteria are needed for this area, but how do you determine the limits of that district, and the proper height and size of signs? Chair Gilbert stated Mr. Motta explained it well, you do a mock sign test by using a crane and raising the sign until it is visible.

Mr. Pastor asked whether the old McDonald's sign will be re-installed. Mr. Prather stated it depends on the vote. It will not be 94 or 96 ft high, but a more modern new pole sign.

Mr. Ugarte stated staff is recommending 60 ft, and asked whether 60 ft is too low. Chair Gilbert stated the closer the sign is to the interchange the smaller and lower to the ground it can be and still work; the further away you are from the interchange the taller and larger it has to be. The higher the sign the more square footage you will need. There is a huge difference between a 60 ft and 85 ft sign. The size height was chosen by using Wendy's sign because it is the largest in place now.

Mr. Pastor stated Wendy's will be non-conforming and asked Mr. Barnebey for clarification of the history of the past signs. Mr. Barnebey stated he does not know if any notices were sent out, but his position on the non-conforming signs is they should be removed. The question at hand is what do you think is appropriate? The existing signs that are non-conforming will be dealt with as they come forward. Mr. Barnebey stated the Board is balancing the appearance of the City with what is important to business.

Ms. Lyn asked whether it would be defensible to identify the types of businesses that need higher signs. Is there another approach to spell out the specific purposes of why certain businesses need higher signs? Mr. Barnebey stated he is not aware of an ordinance that does that. You could allow the taller signs of the existing businesses that are non-conforming by extending the amortization period. Chair Gilbert suggested identifying the businesses by the following: "food, fuel and lodging" as used on the interstate.



Mr. Ugarte moved to recommend approval of Ordinance 2011-12 with modifications. Modifying the maximum height under Section 3-154-e Subparagraph 1 (a) amending the 400 square feet to read 325 square feet

maximum surface area and (c) limiting those signs that are 85 ft in height and 325 sq. ft to businesses that provide at least 50% of food, lodging and fuel within the corridor and limiting signs in the underlining districts to 76 sq ft surface area and 30 ft in height. Mr. Pastor seconded. **MOTION CARRIED UNANIMOUSLY**, two members absent.



Adjournment: 6:00 p

DRAFT

JASON M. DEPAOLA
ERIN M. DUBOIS
CURTIS D. HAMLIN*
MARY R. HAWK+
TIMOTHY A. KNOWLES
GREGORY J. PORGES++
MICHAEL J. PROHIDNEY
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ALSO ADMITTED IN GEORGIA
++ALSO ADMITTED IN NEW YORK

OF COUNSEL:
ALAN H. PRATHER**

MEMORANDUM

To: Planning & Zoning Board
Re: Palmetto Sign Ordinance Amendment
Date: Public Hearing of April 13, 2011

The law firm of Porges, Hamlin, Knowles & Prouty, P.A. represents McDonald's Corporation ("McDonald's") regarding the freestanding sign that was located at the McDonald's local restaurant at 69910th Street East (US Hwy 301) in the City of Palmetto. As you may know, McDonald's needed to remove its previously existing freestanding sign for a necessary safety inspection and potential replacement. However, due to the City's present sign ordinance (which was adopted in 1986 and we believe is regressive to achieving successful commercial endeavors) McDonald's faces the potential loss of its commercially beneficial freestanding sign at that location. The City of Palmetto (the "City") is presently considering an amendment to the existing sign ordinance (the "Amendment") that will affect McDonald's. The proposed Amendment targets the commercial corridor on 10th Street East (U.S. Hwy 301) east from the overpass of U.S. Hwy 41 to the intersection of Haben Blvd (referenced as the "Interchange Intersection"). This "Interchange Intersection" corridor is where two main 4 lane state roads intersect with one another. In this location, many timed vehicle speeds are in excess of 50 mph. As such, this particular corridor requires highly visible signage with clearly readable and understood information.

Within the commercial corridor, the proposed Amendment primarily impacts the existing "freestanding" signs of Burger King, Wendy's and the Taco Bell restaurants. McDonald's proposed "replacement" sign is also affected as well as the above mentioned properties within the corridor. Some of these freestanding signs are currently nonconforming signs under the existing sign ordinance, which was adopted in 1986. The current sign ordinance restricts any pole sign to a height of no more than 30 feet and a surface area of 40 sq. ft. within the commercial corridor. Thirty (30) feet of sign height and forty (40) square feet of sign surface area equal a significantly ineffective freestanding sign in an area like the "Interchange Intersection" in Palmetto. In our opinion, the existing 1986 ordinance is not good for businesses in this commercial corridor. Nonconforming means that: 1) these existing pole signs are possibly subject to

removal with loss of investment and commercial benefit; and 2) any of these signs which are taken down in connection with a remodeling of a restaurant or to perform maintenance, may not be capable of replacement in their existing configuration.

The proposed Amendment to the sign ordinance arose from a Planning & Zoning Board work session. It is of limited impact to the City. It proposes to adopt for the Interchange Intersection, which is specifically identified and of limited location in the City, an amendment to the sign ordinance which would make all of the existing free standing signs conforming as to height and as to surface area. The proposed Amendment would set a maximum height of 85 feet overall (i.e. pole and sign) with a sign face surface area of a maximum 400 square feet. This does not apply City wide but only to the Interchange Intersection corridor. We support this Amendment.

Admittedly, the aesthetic impact of signs within a community is both an emotional and regulatory issue. However, in this instance, the very limited scope of the proposed Amendment both in geographical application and in dealing with only freestanding signs is really minimal in nature with no adverse impact. This means that the proposed Amendment comes down to a decision of whether the City wishes to support local businesses and increase their chances of survival within this commercial corridor or not (please be advised that the Sonic restaurant located within this commercial corridor recently closed). We are asking the Planning & Zoning Board to express its support for the adoption of the proposed Amendment to the sign ordinance. The existing sign ordinance provisions are too restrictive and not supportive of commercial growth in the corridor. The proposed Amendment, which would allow for a realistic and viable freestanding sign at a maximum height of 85 feet overall and a sign advertising surface area of 400 sq.ft., would make the existing freestanding signs and McDonald's proposed replacement sign conforming within the applicable corridor.

Signage is a critical tool for McDonald's restaurants, as well as many other retail establishments, in generating the customer draw expected to make the business profitable and sustainable. While it may be easy to think that everyone locally knows where McDonald's is located, we are in fact a very mobile society and this area has a considerable number of out-of-town travelers. Drivers in the US drove over 1.6 billion miles in 2001 according to the Department of Transportation. Through customer surveys, McDonald's has been able to determine how critical signage is to each restaurant location. Furthermore, it is estimated that 35% to 50% of the consumer population shops outside of its local area. McDonald's has learned through years of research that 70.3% made the decision to visit a McDonald's restaurant at the spur of the moment in comparison to the industry standard of 40% for fast food restaurants. McDonald's signage is a very critical visual impression which helps to bring on that spur of the moment decision. McDonald's sales are already off by 12% as of March since the removal of the sign in early February. Signs are meant to attract attention. A business district handcuffed by a restrictive sign code is often bland, uninviting, and economically underachieving.

For your assistance and to help understand why businesses support this Amendment, here are some points to consider:

- Given the difficult economic times for everyone today, the City and the City Commission need to affirmatively grasp at any and every opportunity to assist businesses and embrace "job-creating" growth by businesses. The City needs to foster a climate of cooperation with commercial activities. The City must not only help with the survival of existing businesses but also the expansion of existing businesses and inclusion of new businesses to the City in this commercial corridor.
- Proper signage is critical to the success of commercial uses, retail establishments, service providers and restaurants, especially fast food restaurants. In order to attract customers, effective, visible and specific information sign advertising is necessary for business survival. There needs to be a limited but positive change to the existing regulations regarding advertising signs in this corridor. The proposed change will assist existing businesses and cause new businesses to locate in the corridor.
- The affected corridor is unique within the City. Adoption of the sign ordinance amendment will not be a basis for adopting similar sign ordinances in the less intensive main area of the commercial center or downtown core. The downtown area is not affected. The corridor in question is not a primary residential area or one of historical significance requiring protection. The corridor is a highly intensive commercial area and it needs specifically tailored sign regulations.
- The City's local McDonald's restaurant employs 64 people and affirmatively benefits or contributes to the City through a shared economic exchange in the market place. A McDonald's study predicated on 2009 data indicates that McDonald's Florida restaurants collectively returned more than 45 cents of every dollar earned to the local economy. McDonald's needs effective sign advertising within this corridor to help sustain and grow its business and protect its employee's jobs.
- As noted above, a 12% loss in sales equates to a loss in sales tax revenues for governments and as always, loss of sales bodes ill for jobs and adversely affects vendors.
- Fast food restaurants provide an alternative to feeding families and friends. Fast food restaurants offer a choice for those on a tight schedule. They provide convenience for many families along with meals at reasonable prices. Additionally, fast food restaurants provide a continuing source of jobs for local residents.

- Fast food restaurants represent a substantial end user in the fresh tomato market. Whenever the packing houses are active in the City, a substantial portion of that production finds its way into the fast food restaurant chains. Making it harder for these restaurants to prosper will negatively impact the local tomato operations within the City.

Palmetto businesses and the jobs they provide need your support for adoption of the proposed sign ordinance amendment relating to the Interchange Intersection.

Thank you for that support.