

EDGERTON CITY HALL
PLANNING COMMISSION MEETING
REGULAR SESSION
September 10, 2019

The Edgerton Planning Commission met in regular session with Chair John Daley calling the meeting to order at 7:00 p.m.

All present participated in the Pledge of Allegiance.

The Roll Call was answered, indicating those present were Chair John Daley, Commissioner Jeremy Little, and Commissioner Charlie Crooks. Commissioners Tim Berger and Josh Beem were absent from the meeting. Also present were City Administrator Beth Linn, Development Services Director Katy Crow, and Planning and Zoning Coordinator Chris Clinton.

The Planning and Zoning Coordinator announced a quorum was present.

CONSENT AGENDA

MINUTES

The approval of the minutes from the Regular Session held on August 13, 2019 were considered.

Mr. Crooks motioned to approve the item as presented in the Consent Agenda, Mr. Little seconded. The consent agenda was approved, 3-0.

NEW BUSINESS

PUBLIC HEARING – CONDITIONAL USE PERMITS – APPLICATIONS CU2019-02 & CU2019-03

Chairman Daley introduced Application CU2019-02 and CU2019-03 as the 2 billboards located at 36450 Frontage Road.

Mr. Curt Petersen, agent, Polsinelli Law Firm, came before the Commission as a representative of the property owner, MICO, Inc. He stated the billboards are located just south of the Sunflower Road interchange with Interstate-35 (I-35) and can be seen by travelers along I-35. MICO, Inc. entered into a lease agreement with Ad Trend about 10 years ago to have billboards located on the southern and northern tip of the parcel. The agreement was for a 30-year land lease. At that time, a billboard required a Conditional Use Permit (CUP) per the Unified Development Code (UDC). The UDC has recently been updated to not allow billboards in the City of Edgerton. The original 5-year CUP has expired and an application to renew the CUP was not made by the property owner due to administrative error and oversight. MICO, Inc. is requesting a new CUP to cover the balance of the lease term, which is 20 years. Mr. Petersen agreed with all the stipulations outlined in the Staff Report except for the limitation of the CUP to a the 5-year term, as recommended by City Staff. He requested the Planning Commission consider a 20-year CUP term which would cover the remaining time of the lease agreement. Mr. Petersen stated that MICO, Inc. is at risk with an ever-changing environment and he wants MICO to be able to uphold their end of the lease agreement. Mr. Petersen stated the billboard will be maintained up to City standards.

Ms. Crow confirmed there are 2 billboards on the parcel. The original CUP application was issued in 2010 and issued for 5 years, so it expired in 2015. The applicant has applied for a new CUP. City Staff requested a CUP application be on file for each billboard in case the sale of the parcel results in a land split at some point in the future. Ms. Crow explained a CUP stays with the land, even if property owners change. She informed the Planning Commission a CUP is treated like a rezoning as it is based upon the use of the land. Therefore, the same Golden Factors considered during a rezoning are used in the CUP process and they are outlined in the Staff Report. She stated most of the Factors for the billboards have been deemed positive by Staff, with a few neutral determinations. City Staff has not received any questions or concerns regarding these applications. MICO, Inc. has provided public hearing notices to the surrounding property owners as is required. Ms. Crow explained 5 years is the typical time limit for a CUP. The first CUP was issued for 5 years even with the 30-year lease agreement being in place. The Staff Report does outline some stipulations for approval, which Mr. Petersen stated the property owner does agree with.

Mr. Crooks asked if the billboards will be removed once the lease agreement expires. Ms. Crow answered that the UDC, as of now, does not allow billboards in the City of Edgerton, so it is a risk if an applicant wishes to apply for a CUP. Chairman Daley asked if the billboards would be grandfathered in under the previous UDC. Ms. Crow replied the billboards are considered a non-conforming use and they would not be allowed per the UDC if the CUP expires. Mr. Crooks stated the Planning Commission could split the difference of Staff's recommendation and the applicants request and recommend the CUP for 10 years. He stated there are pros and cons to each. Ms. Linn stated it is up to the Planning Commission to weigh those pros and cons. She stated the applicant is requesting an unusually large amount of time for a CUP. Ms. Linn wants the Planning Commission to keep in mind the investments other property owners have put into the community that have CUPs for less than 20 years. Ms. Linn stated the Planning Commission will send forth a recommendation to the Governing Body as a CUP is adopted by ordinance. Chairman Daley requested clarification if the Governing Body could deny the CUP time limit the Planning Commission recommends. Ms. Linn replied the Governing Body can change the stipulations of approval in the ordinance they adopt.

Mr. Petersen replied the other projects that have larger investments don't have a legal nonconforming use as billboards are no longer allowed per the UDC. He stated the applicant wants to discuss the length of the CUP now as the details could change in 5 years from now with a new Planning Commission, Governing Body, and UDC. Chairman Daley stated the original 5-year CUP was approved even with the 30-year lease agreement in place. He asked if the lease could be transferred to a new property owner. Mr. Petersen stated he is unsure at this time.

Chairman Daley opened the public hearing. No comments were made. Mr. Crooks motioned to close the public hearing, Mr. Little seconded. The public hearing was closed, 3-0.

Chairman Daley stated the original CUP was for 5 years and it is always a possibility for the property to be sold. Mr. Crooks agreed and stated 5 years is the typical time limit for a CUP, but he does understand the request for longer. Chairman Daley inquired about what happens to the CUP if the property is sold. Ms. Linn stated the CUP is transferred with the land and gave the example of a cargo container storage lot that was approved then sold to a new company that is currently operating in Logistics Park Kansas City. She explained that is why CUP applications are treated like a rezoning application.

Mr. Crooks motioned to recommend approval with the following stipulations:

1. Conditional Use Permits CU2019-02 (north) and CU2019-03 (south) are each attached to one sign as described in the Staff Report. If ownership of the parcel changes, each CUP allowance will run with the billboard sign to which it is assigned with any change of ownership reported to the City so that permit records can be updated.
2. Each sign must be kept in good condition and should repairs be required, repaired in accordance with the time frame of the City of Edgerton UDC in effect at the time the repair is needed. Failure to properly maintain the sign shall be cause for revocation of the CUP(s).
3. Any major modifications to the billboard sign, as defined by City Staff, will render CU2019-02 (north) and CU2019-03 (south) null and void. Should the CUP be determined to be null and void, the billboards would then need to be removed within 60 days after notification to the property owner by the City.
4. As a legal non-conforming use, these CUPs are subject to the restrictions outlined in Article 9, Section 9.7.
5. Each CUP shall be valid for 5 (five) years from date of approval by the City of Edgerton Governing Body, regardless of ownership.
6. Should either of the CUPs not be renewed and approved by the Governing Body prior to their expiration date, then the billboards will be considered non-compliant with the UDC and will be required to be removed within 60 days of written notification to the property owner by the City.

Mr. Little stated he would consider approving the CUPs for 10 years. Mr. Daley stated the UDC was updated to not allow billboards in the City of Edgerton. Mr. Crooks stated the Governing Body could change the time if they are not happy with what the Planning Commission recommends. Mr. Little agreed and seconded the motion to recommend approval with the 5-year limit. Conditional Use Permit applications CU2019-02 and CU2019-03 were recommended for approval to the Governing Body, 3-0.

Ms. Linn stated the CUPs will be presented to the Governing Body at the September 26, 2019 meeting.

FUTURE MEETING

The next meeting is scheduled for October 8, 2019 at 7:00 p.m. Chairman Daley asked if there would be any items before the Board of Zoning Appeals (BZA). Ms. Crow replied there are no items to go before the BZA. Chairman Daley confirmed the time of the next meeting to be 7:00 p.m.

ADJOURNMENT

Motion by Mr. Crooks, seconded by Mr. Little, to adjourn. Motion was approved, 3-0.

The meeting adjourned at 7:17 p.m.

Submitted by: Chris Clinton, Planning and Zoning Coordinator