

**CITY OF GRIFFIN BOARD OF COMMISSIONERS  
SPECIAL CALLED MEETING  
ONE GRIFFIN CENTER, W. ELMER GEORGE MUNICIPAL HALL  
TUESDAY, JULY 28, 2015**

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Chairperson Doug Hollberg presided, calling the meeting to order at 9:00 p.m. Commissioners attending were Dick Morrow, Cynthia Reid-Ward, Ryan McLemore, and Rodney McCord. Also present were City Manager Kenny L. Smith, City Attorney Andrew J. Whalen, III, and Teresa Watson to record minutes.

***Motion/second by Commissioners Morrow/Reid-Ward to enter Executive Session at 9:02 a.m. carried 5-0. Motion/second to adjourn Executive Session at 9:18 a.m. and reconvene to Open Session by Commissioners McLemore/Reid-Ward carried 5-0.***

<b>REGULAR AGENDA</b>
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- 1) Consider an appeal to staff denial of six (6) billboard sign applications submitted by Southern Digital Displays to erect billboards at the following locations within the City of Griffin:  
SR 19-41 (Taylor Street) @ 9th Street  
SR 19/41 @ Lover's Lane  
Poplar Street @ 9th Street  
College Street @ Collins Street  
Broad Street @ 9th Street  
Experiment Street @ 13th Street

Mr. Whalen said this was an administrative hearing for an appeal of the City's denial of six digital billboard permit applications, submitted by Southern Digital Displays, Inc. The City's Development Services Department reviewed the applications, along with City Manager Kenny Smith, and denied all six. From that denial, applicant has requested an appeal hearing before this Board. Two letters provided written notice as to why the applications were denied. He provided the original file to the applicants for review. Mr. Whalen tendered for the record the six applications submitted by the applicant. He noted the appeal hearing today, conducted during a Special Called Meeting, was being recorded and would be transcribed in the event a record was needed going forward.

Mr. Jason Orenstein from Macon is in attendance to represent Southern Digital Displays, Inc. Mr. Ryan Terrell from Southern Digital Displays, Inc. was also present.

Mr. Whalen called Toussaint Kirk, Director of Planning and Development for the City of Griffin.

Mr. Kirk was sworn in and stated he has been Director of Planning and Development Services for 7 months. Prior to that time, Mr. Kirk worked for City of Griffin from September 2010 to July 2013. From July 2013 to seven months ago, Mr. Kirk was employed as City Planner for the City of Fairburn. He was previously, and is now, a Planner for the City of Griffin. Mr. Kirk advised he has a Master's Degree in Urban and Regional Planning. He has no certifications and no special professional licenses of any sort. He confirmed he was familiar with the six sign applications that were submitted by Southern Digital Displays, Inc. He referenced the copies of each and referenced each for discussion.

Application #1 - SR 19-41 (Taylor Street) @ 9th Street, (RAM 211 SS Route 19/41, Taylor Street at S. 9<sup>th</sup> Street). This proposed sign location is positioned on railroad property (Norfolk Southern, hereafter referred to as N-S) next to Advance Auto on Highway 16 (Taylor Street) on the railroad property that is across from Hong Kong restaurant downtown. He answered that this property is not zoned by the City but rather is N-S railroad property. Trains are active at this location to carry products with tracks and scheduled trains. Mr. Kirk noted the sign proposed was as a 242 sf double-faced billboard sign with an overall height of about 50 feet, aligned back-to-back for visual in two directions (east-west). Both sides of the sign would not be visible from any given direction. It was proposed as a billboard and was evaluated under the City's sign regulations in Article 12 in the Unified Development Code (UDC), which regulates zoning, sign and development standards. This proposed sign, evaluated as a billboard (which is how they applied for the permit on the application) does not satisfy the definition of a billboard according to Article 12 Sign Regulations of the UDC. The article defines a billboard as being 300 sf in size and this proposed billboard was 242 sf. In determining the size of a sign, whether freestanding or billboard, the area that you can actually see is measured to calculate area. For a multi-face sign, you must calculate the size based on the largest visible face. On review of this sign as a billboard, it was Mr. Kirk's opinion it does not comply.

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When Mr. Kirk also viewed this application as a free-standing sign, and he noted the N-S row at this location is not a platted lot, or lot of record, which would mean it is not controlled or regulated by the City. The City does not regulate railroad rights-of-way. The maximum height limitation on a freestanding sign is 24 feet, and this proposed sign was too high at 50 feet. Mr. Kirk confirmed that only one freestanding sign per location can be placed on a platted lot. If the location is not platted, or a lot of record, Mr. Kirk contended that none would be allowed. The proposed sign face of 242 sf does comply with the maximum size of a freestanding sign face at this particular location.

Mr. Kirk was uncertain if the Georgia Department of Transportation would require a separate permit for an outdoor advertising sign at this location but thought that might be the case since Taylor Street is a state route (SR 16).

Chairman Hollberg asked to review the definition of a freestanding sign and clarified that this would be considered as a pole sign and not a monument or ground sign. The sign shall have no more of an area than 300 sf nor less than 4 sf.

Application #2 - SR 19/41 @ Lover's Lane (RAM 212) on the west side of Lover's Lane. Mr. Kirk explained this proposed location is behind Ryan's Steakhouse and the Washington Mutual building on Norfolk-Southern Railroad property on the west side of this state highway (SR 19/41). This is another digital multi-faced sign of 242 sf at a height of 60 sf. This proposed sign does not meet the minimum size requirement. Planning and Development also evaluated this application as a freestanding sign, but the height restrictions of 24 feet were exceeded. Again, Mr. Kirk was unclear if a GDOT permit would be required but opined this would probably be the case since this was located on a state highway. This property contains a bridge over the railroad and is not a platted lot, or lot of record.

Application #3 - Poplar Street @ 9th Street (RAM 215) proposed to be in the triangle of Poplar and Meriwether on the north side of that property between the two bridges that are over the railroad right-of-way. The railroad property is not a platted lot, or lot of record. This is proposed to be a 242 sf sign at a height of 30 feet. Mr. Kirk confirmed the City designates this as an emerging commercial corridor, in which neither billboards nor freestanding signs are allowed. Monument signs are allowed at this location at a maximum square footage of 12 square feet.

Application #4 – South of College Street and Collins Street (RAM 214). This proposed location is next to the railroad on the southwest side of College and west of Collins Street. Neither College nor Collins is a state route. The type of proposed sign was a twin-faced, 242 sf sign, with a height of 30'. This area is designated as an emerging commercial corridor, so no billboards or freestanding signs are allowed by the City. This sign is not permissible per Article 12 of the City's sign standards.

Application #5 – Broad at N. 9<sup>th</sup> Street (RAM 215). This proposed location is an open field on the south side of Broad Street near where N. 9<sup>th</sup> Street intersects. Neither is a state route. This type of proposed sign was a multi-faced, 242 sf digital sign with an overall height of 30 feet. This sign does not constitute a billboard as it does not meet the minimum 300 sf standard. It does meet most standards for a freestanding sign which would be permitted at this location, except for the height limitation. The proposed sign height of 30 feet exceeds the 24 foot height limitation and would need to be reduced by 6 feet, or the applicant would need to successfully obtain a variance.

Application #6 – 216 Experiment Street (RAM 216). This proposed location is on the north side of Experiment Street just west of North 13<sup>th</sup> Street just before the Easy Shop grocery store location. The railroad right-of-way could not be determined; neither could the City street row for Experiment Street at this location be determined. This type of proposed sign was a multi-faced, 242 sf digital sign with an overall height of 30 feet. The proposed sign does not constitute a billboard because the square footage is under the minimum 300 sf. In Mr. Kirk's opinion, it would also not constitute a freestanding sign because without the clear rights-of-way on a platted lot, they would not know how to rule on the application.

In review of these applications, Mr. Kirk said he could not make a determination that any of the six could be approved. He informed the applicants of denial on all six after discussing it with the City Manager, who concurred on the denial. This denial was provided in a June 19 letter which detailed the reasons for denial of the sign applications. The applicants then filed a request for an appeal.

Jason Ornstein, attorney for the applicants, noted that Mr. Kirk had mentioned the City does not regulate railroad rights-of-way. In fact, each application for proposed billboards is on railroad right-of-way. These rights-of-way are not platted and therefore not controlled by City. Mr. Kirk concurred.

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Mr. Ornstein asked if they are unzoned, and Mr. Kirk confirmed. Mr. Ornstein asked if, because they are unzoned, it would be accurate to say the Ordinance does not apply. Mr. Kirk said he could not make that determination.

Mr. Ornstein reiterated that Mr. Kirk testified he reviewed the permits, then took his findings to discuss with Mr. Smith. He affirmed they then made a joint determination that they should be denied. The findings were based on a review by Mr. Kirk and Mr. Smith alone. The findings, noted Mr. Kirk, were made based on Article 12 of the Griffin UDO. He asked if there were any other reasons besides the Article 12 prohibitions in the UDO that were relied upon in making this determination, and Mr. Kirk responded no.

Mr. Ornstein said when Mr. Whalen asked about GDOT permits and whether they were necessary, Mr. Kirk responded that he thought so. He asked if this something outside the purview of Mr. Kirk or something of which he needed to be aware. Mr. Kirk allowed that this was part of his research but stated he assumed GDOT would have their own regulations on billboards that are different from the City of Griffin. Mr. Ornstein asked what value Mr. Kirk placed on the likelihood of GDOT approval on state routes and whether such approval or denial would be a factor in the City's decision to deny any of these applications. Mr. Kirk repeated that these determinations were made based on the Griffin UDC. Mr. Ornstein asked if a billboard were deemed appropriate under the City regulations but Mr. Kirk was unsure of GDOT regulations, would Mr. Kirk be hesitant to issue a permit. Or, asked Mr. Ornstein, would Mr. Kirk issue the permit and let GDOT worry about their regulations. Mr. Kirk affirmed that he would make his determination based on UDC regulations. When asked by Mr. Ornstein if unzoned property falls within the scope of the Griffin UDC, Mr. Kirk responded no; it is not regulated by the UDC. Mr. Ornstein asked then why would you use this determination and apply the UDC to these permits if unzoned property is not regulated by UDC regulations. Mr. Kirk said applications were made to the City for review, and they made determination based on the UDC.

Mr. Ornstein had no more questions for Mr. Kirk, and Chairman Hollberg asked they could wait for Commissioner Morrow to return before proceeding, as he had to momentarily step from the room.

While waiting, Mr. Whalen asked Mr. Kirk if, under the UDC, zoning regulations and sign regulations become intrinsically linked, in essence part and parcel of one another. Mr. Kirk replied that no, they are separate. This is true for development regulations, as well. You could have one treatment for zoning under parts of the UDC and another treatment for sign regulations.

Mr. Ornstein asked Mr. Kirk to explain what he just testified to for Mr. Whalen. Mr. Kirk responded zoning is based on the zoning designation, i.e. PCD, PID, etc. The sign ordinance is not based on zoning. They are separate entities, and development standards are contained elsewhere in the UDC. When he receives a sign application, he does not look to see what it's zoned, but rather to see if it is vacant or developed. If there is a structure on the property, he would reference one section but if not, he would reference another section of the sign code. He affirmed for Mr. Ornstein that the sign code is Article 12. If Article 12 doesn't apply to an unzoned (therefore unregulated by the City) property in question, then there would be nothing to review/apply, suggested Mr. Ornstein. Mr. Kirk stated he looked at the information available, and he considered railroad tracks to be developed property.

Chairman Hollberg said whenever they discuss state routes, emerging commercial corridors, etc., they look at more if the highways as being places to put these prescribed things, so if the railroad goes through that area, wouldn't you look at that as being GDOT state highway corridors versus city streets/corridors. Mr. Ornstein said you could, but these gentlemen (Messrs. Kirk and Smith) have determined that the permits should not be issued based upon regulations in Article 12. He continued that they contend Article 12 does not apply to these properties; Mr. Kirk testified they are unzoned and not regulated by the City; they are not platted. Therefore, contended Mr. Ornstein, they are not within the purview of City of Griffin to regulate as it stands now.

In this instance, his clients merely seek a permit to place a billboard, and they do not feel that the basis for denial can be found in Article 12 of the UDC because they feel Article 12 does not apply. Article 12, Section 1204(a) states that requirements of this Ordinance shall apply to all properties in the City of Griffin, regardless of zoning districts. So, to him that means that if it is zoned, this code section applies. It doesn't say regardless of whether it is zoned or not. All properties, regardless of zoning districts, does not apply to property that is unzoned and not part of any zoning district.

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Chairman Hollberg made some comments regarding commercial corridors and the railroad's use of property that traverses many different zoning classifications, including commercial districts. If property is commercial on either side of a proposed location that is not unzoned, he would still think of it as commercial property. He viewed it as stretching the permitted use in any given district. Lover's Lane is an abandoned piece of railroad track, and the track to the east is closed and no longer used. This property could potentially be reclaimed for recreational use like bike trail.

Mr. Ornstein realized the difficult position these applications place the Board in.

Commissioner Reid-Ward asked if Norfolk Southern was asking for the permits. Mr. Ornstein explained these would be signs built with NS permission by Southern Digital Displays. Commissioner Reid-Ward asked if the signs will facilitate the ability of NS to move freight or run trains or not. Mr. Ornstein advised they are independently operated by another company ... his client. Basically, she asked again do the signs belong to NS? No, but the pole will be built on NS property. NS is listed as giving permission on the sign permit applications. When asked if the sign company will advertise something that would benefit NS or others, Mr. Ornstein relayed there are no customers yet as they have not been leased, but it is common that billboards on NS property will contain advertising for NS. He cannot say with certainty that will be the case, but it is common for that to happen, noted Mr. Ornstein, such as directional information or beware of train crossings, etc.

Mr. Whalen said that NS is giving permission for the use of their property in this manner. They are involved only as owners of property.

Commissioner Morrow said he felt bad for NS if they needed money this badly, and this brings nothing beneficial to Griffin. Mr. Ornstein stated he understood Commissioner Morrow's sentiments. Billboards do bring some benefit but Mr. Ornstein conceded there is a downside to them, as well. Businesses in cities do rely on these signs to provide beneficial advertising. Chairman Hollberg ventured that the Mayor of the City of Macon, where Mr. Ornstein's firm is located, did not want billboards running the length and breadth of his historic district.

Mr. Terrell responded to Commissioner Morrow that he does not look at this as doing something to the City of Griffin. They provide a service in every municipality to commercial businesses. He understands the thoughts about emerging commercial corridors. Commissioner Morrow said he appreciated them coming to Griffin and doing this to us.

Mr. Whalen said, unless there are additional questions/comments that adhere to facts, Mr. Kirk could step down. He had no other witnesses.

Mr. Ornstein said his comments were concluded.

Mr. Whalen said state regulations allow 30 days for making a decision or ruling, setting out the reasons for either affirming or denying the permits. The Board can make a decision or defer and bring it back for a decision within that 30-day time frame.

When prompted by Commissioner Morrow, Mr. Whalen recommended denial. This issue of not zoning railroad property across the cities and counties of this county is because of federal law. It was clear that staff analyzed the applications. One of the railroads is abandoned. He looked at the issue of preemption earlier and does not feel this action impedes any railroad operations.

***Commissioner Morrow said the Board had acquainted itself with all the legalities of this issue and he moved to deny the appeal. Motion was seconded by Commissioner McLemore and it carried unanimously at 5-0.***

<b>ADJOURN</b>
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<b><i>Motion/second by Commissioners Reid-Ward/Morrow to adjourn at 10:01 a.m. carried 5-0.</i></b>
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Respectfully Submitted,

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Kenny L. Smith, City Manager/Secretary

Accepted:

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Douglas S. Hollberg, Chairperson