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MINUTES

SIGN CODE BOARD OF APPEALS March 15, 2006

The Sign Code Board of Appeals met on Wednesday, March 15, 2006, with the following members present: Peter Neumann, Chairman; Ray Hadley; Dennis Hettich; Lesley Rutter; and Ethan Schmidt. Staff present: Brenda Vespested, Karen Bulman and Brad Solon, Development Service Center; Joel Landeen, City Attorney's Office. Visitors present: Karen Gunderson Olson, Jacqueline Allen, and Steve Doshier.

Neumann called the meeting to order.

Appeal No. 2005-20 Continued from January 18, 2006

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the off premise sign located at 1118 W Main Street, legally described as Lot 41-44 Lying S of RR, Block 6, Riverside Addition, Sec 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs and the construction specifications.

Appeal No. 2006-1

Lamar Outdoor Advertising, 7509 N Highway 79, Black Hawk, SD 57718, appeals the decision of the Building Official that the proposed alteration of the off premise sign located at 2020 W Omaha Street, legally described as Lot RU-104, U-R #1 Addition, Sec 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs and the construction specifications.

Appeal No. 2006-4

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the sign located at 3345 Sturgis Road, legally described as Tract C, C D Rounds, Sec 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs.

Appeal No. 2006-5

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the sign located at 1604 Mount Rushmore Road, legally described as S1/2 of Lot 1-3, Block 11, West Boulevard Addition, Sec 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs.

Appeal No. 2006-6

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the sign located at 425 Omaha Street, legally described as Tract NW 66 Less Lot H1 & Lot H2; Bal of Lot 12-16 Less Lot H1 of Lot 16; N 10' of Vac Alley Adj to Lot 12-16 Less Lot H1, Block 66, Original Town of Rapid City, Sec 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs.

Appeal No. 2006-7

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the sign located at 644 N La Crosse Street, legally described as Lot 15-16, Block 3, Feigels Addition, Sec 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs.

Appeal No. 2006-8

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the sign located at 418 Knollwood Drive, legally described as All of Block 6R, Airport Addition, Sec 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs.

Appeal No. 2006-9

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the sign located at 112 E North Street, legally described as Tract A of Lot 13-17, Block 6, Schnasse Addition, Sec 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs.

Appeal No. 2006-10

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the sign located at 1822 W Kansas City Street, legally described as Lot 40-43, Block 1, Jones Tract, Sec 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs.

Appeal No. 2006-11

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the sign located at 401 W Main Street, legally described as Lot 1-4, Block 86, Original Town of Rapid City, Sec 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs.

Solon gave the video presentation. The green cards were turned in at a previous meeting. Sean Casey, Brendan Casey, and Mike Reynolds were present to represent Epic Outdoor Advertising. Doug Rumpca and Terry Olson were present to represent Lamar Outdoor Advertising. Solon said that this appeal should be heard separate and it should be finished because the motion to overturn failed at a previous meeting. There was discussion on which appeals should be heard together and the Board's intent was to continue Appeal No. 2005-20 and hear the appeal. The Board agreed to hear the following appeals together: 2005-20, 2006-1, 2006-4, 2006-5, 2006-6, 2006-7, 2006-8, 2006-9, 2006-10, and 2006-11. Lamar applied for a permit to change out the face to an electronic sign. Rumpca said that this sign has been fitted with retro fit panels at this time. Reynolds asked to argue this with all the others because Lamar could choose to put up an electronic sign if the others are allowed. Landeen said that the question here is the structural alteration exception. Landeen said that there is no dispute about the smaller retro fit panels

being under this exception, but the question is an electrical face is a structural alteration beyond just reducing the sign face. Schmidt asked about the definition of sign. Landeen said that there is a definition for “electrical sign” in the ordinance and Landeen read this from the Sign Code. Hadley asked about adding electric panels and other things to make the signs work. Hadley asked because there was an appeal from Blockbuster that got denied because he had to move the power box. Rumpca said that they did not move the box, but had to add a couple of additional things. There was discussion about data cables and electrical issues. Rumpca said that the codes reads that only those structural alterations necessary to allow reduction of the face size are permitted by this exception, it doesn’t say what these alterations need to be. Hadley said that structurally altered to him does not include electrical, and the electrical changes would need a permit and inspections. Landeen said that Lamar is saying that the electrical work is a structural alteration that was necessary to reduce the face of the sign; and Epic is saying that the sign face could have been reduced by putting up a retro panel without the electrical work. Reynolds said that the overall goal of the sign code was to reduce the amount of signs in the city. Reynolds said that the key language in the code is “sole purpose” – but Lamar’s purpose is to put up electric signs to get an edge on the competition. Rumpca said that they are allowing them to change from a wood sign to a metal sign, and why would an electric sign be any different. There was discussion on what is considered a structural alteration. Solon said that the code is written too broad to enforce and this can be argued either way. Hadley thinks that these appeals should be approved and then taken to the City Council and let the policy makers make this decision; and as far as putting up LED’s and changing signs to LED’s, this is an issue that the sign companies need to bring forward to the City Council as an ordinance change. Neumann agrees with Hadley. Schmidt wants more factual information. Brendan Casey said that he was on the panel that created the sign code, and electronic signs were not even considered at that time. Sean Casey said that Lamar’s purpose is to put up an LED sign, and they will not reduce the size if they can’t put up the LED. Rumpca said that this it not true, they have reduced several signs without putting LED on them. Solon said that the sign code has worked and billboards have been removed and reduced. Solon informed the Board about the complaints and the notified people who called in. Hadley moved to approve and overturn the decision of the building official, with a second by Hettich. Appeals 2005-20, 2006-1, 2006-4, 2006-5, 2006-6, 2006-7, 2006-8, 2006-9, 2006-10, and 2006-11 were approved, overturning the decision of the Building Official by a vote of 5-0.

Appeal No. 2006-2

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the single pole structure with LED billboard located at 1925 W Main Street, legally described as Lot 7-8 & W12’ of Lot 6, Block 2, Jones Tract, Sec 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs.

Solon gave the video presentation. Landeen said that this appeal was for the electronic sign that was put up on the old structure. But now the old structure is gone and there was a variance granted for spacing on the new sign according to Landeen. Hadley asked how big the sign was originally. Rumpca said that it was two stacked, double sided. Sean Casey said that they missed the appeal for this sign when it was applied for as a reduced sign with an electronic face, but he was in time for the appeal on the structural change. Landeen said that the only reason they couldn’t build this sign new was the spacing issue and there was a variance granted to the spacing. With the conditional use permit, Landeen said that the

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Planning Commission took out the staff stipulation for no electronic signs on the conditional use permit. Landeen does not believe that there is anything legally wrong with the sign for which this Board can overturn the decision to issue the permit. Landeen said that planning staff just does not support any electric signs. Bulman agreed with this statement from Landeen. The spacing variance was granted by the City Council and Karen Olson said that she voted on the spacing only for this new sign. Landeen said that the violation does not exist anymore because the old sign is gone. There was discussion on the validity of this appeal because there is a new sign now that is legal. There was discussion on stopping work that is done illegally on signs. Landeen said that the city will issue a stop work order and require a permit to continue the work, and if a permit cannot be issued, then the structure will have to be removed. Brendan Casey said that they just might put up illegal signs during the rally because of what Landeen just said. Hettich moved to deny the appeal, with a second by Rutter. There was more discussion on the sign. Appeal No. 2006-2 was denied by a vote of 4-1, with Hadley opposed.

Appeal No. 2006-3

Epic Outdoor Advertising, PO Box 7861, Rapid City, SD 57709, appeals the decision of the Building Official that the proposed alteration of the billboard located at 1925 W Main Street, legally described as Lot 7-8 & W12' of Lot 6, Block 2, Jones Tract, Sec 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, conforms to the requirements for the alteration of existing signs.

Lamar wants to put an electronic sign on the back of the new sign. There is a retro panel on the back now. There was discussion on changes to the sign and changing the conditional use permit. Hadley believes that this appeal should be upheld and the applicant would need to go through the Planning Commission to change the conditional use permit to allow the electronic sign on the back. Hadley moved to approve the appeal and overturn the decision of the building official, with a second by Hettich. There was some discussion on the conditional use permit. Bulman said that with the conditional use permit, they would have to look at the original application and they may have to go back with another application to approve the other side for an electronic sign. Appeal No. 2006-3 was approved, overturning the decision of the Building Official by a vote of 5-0.

Hadley moved to approve the minutes of January 18, 2006, with a second by Hettich. Motion carried 5-0.

There being no further appeals to come before the board at this time, the meeting adjourned at 8:30 a.m.