City Council Communication

Department: Community Development CASE #ZT-23-003 Applicant: Steve and Jane Morris 10566 Woodland Trail Council Bluffs, IA 51503 Represented by: Andrew (Buck) Morris 25017 Emile Circle Waterloo, NE 68069	Ordinance No. _____	1st Consideration: 7/24/2023 2nd Consideration: 8/14/2023 3rd Consideration: 8/28/2023 Planning Commission: 7/11/2023

Subject/Title

Request: Public hearing on the request of Steve and Jane Morris, represented by Andrew Morris, to amend Section 15.33.190(J) of the Council Bluffs Municipal Code (Zoning Ordinance) relative to off-premises electronic changeable copy signs.

Background

On May 16, 2023, the Zoning Board of Adjustment held a public hearing requested by the applicants of this case regarding an administrative appeal of a decision by the Community Development Department to require the applicant to remove three existing non-conforming billboards, of equal or greater size, in exchange for constructing a new electronic billboard on property located at 13500 South 192nd Street, as required by Section 15.33.190(J) of the Municipal Code (Zoning Ordinance). The Zoning Board of Adjustment decided that staff correctly interpreted the Zoning Ordinance when issuing the initial administrative decision.

Following the Zoning Board of Adjustment's decision, the applicants submitted an application to amend the Zoning Ordinance to exempt smaller entities or individuals from the removal requirement. The applicants have requested this amendment because they believe the removal requirement places a burden on individuals and small entities who may not have control over three existing non-conforming billboards that may be removed to satisfy the requirements to install an electronic billboard.

The applicants' representative operates a concrete crushing business (salvage operation) at the property mentioned above and has proposed installing a new three-sided billboard in the northwest corner (Attachment A). The billboard's north and east elevations would display static messages, and the south elevation would display a 672 square foot electronic changeable copy sign. The proposed billboard will be used for commercial advertisements and promotion of various community events, per the applicant's letter of intent.

Discussion

The Community Development Department provided the following comments:

1. The current version of the sign ordinance was adopted in 2007 as part of a rewrite of the City's sign regulations (Ordinance No. 5920). The requirement to remove three existing non-conforming billboards to install a new electronic billboard was an addition to the proposed sign ordinance requested by the Planning Commission with a unanimous vote. The Planning Commission requested this language as an incentive to remove billboards, according to meeting minutes. Current billboard regulations are included in Attachment 'B').
2. The current language relative to electronic billboards has served the City well up to this point. The goal of the removal requirement is to ensure that as new electronic billboards are installed, other non-conforming billboards are removed elsewhere. This acts as a mechanism to ensure elimination of non-conforming billboards over time. The requirement to remove three nonconforming billboards to construct one electronic billboard is also sensible, as electronic billboards typically display multiple advertisements on a rotating basis, allowing more advertisements to be displayed with fewer sign faces.
3. The applicant's proposed amendment (Attachment 'C') aims to exempt individuals and smaller entities that do not have control over three non-conforming billboards from the removal requirement in Section 15.33.190(J). Staff does not support this amendment, as it would place responsibility on the City to track the ownership of billboards. The applicant's proposal could also create a situation in which individuals and/or billboard companies create individual LLCs to get around the removal requirement by obscuring the ownership of billboards. It would not be an efficient use of time for City staff to keep track of who owns each billboard and which LLCs are associated with which individual or larger entity.
4. The applicants claim to be at a disadvantage under the existing removal requirement since they do not own three other billboards that they could remove to allow the installation of an electronic billboard. However, the existing billboard regulations do not prohibit the applicants from acquiring three existing non-conforming billboards in the City that could be used to satisfy the removal requirement for their proposed electronic billboard.
5. Planning staff have conducted research into the electronic billboard regulations of peer cities in Iowa and Nebraska, specifically looking to see how Council Bluffs' removal requirements and related regulations compare. The table below summarizes staff's research.

City	**Removal Requirement for Electronic Billboards (Yes/No)**	**Relevant Requirements**
Des Moines	Yes	• Removal is based on a credit system that awards billboard owners with credits for removal of nonconforming signs (number of credits awarded varies by sign type and size). Credits must be relinquished to install a new billboard or convert an existing static billboard • Relinquish two (2) credits to install an electronic billboard, or convert a static billboard, at least 300 sq. ft. and less than 450 sq. ft. in area • Relinquish four (4) credits to install an electronic billboard, or convert a static billboard, at least 450 sq. ft. and less than 672 sq. ft. in area

		• Relinquish one (1) or two (2) credits to install a static billboard, depending on the size of the static billboard to be installed • Maximum permitted billboard size is 672 square feet
Cedar Rapids	Yes	• Remove one (1) electronic billboard or two (2) static billboards of equal or greater size to install a new electronic billboard • Conversion of existing billboards from static to electronic requires the removal of one (1) billboard other than the one to be converted • Total number of billboards inside city limits is capped at the number legally existing on June 4, 2013, minus billboards that are removed and not replaced • Maximum billboard size is 672 sq. ft. along highways signed at 55 mph or greater, and 378 sq. ft. elsewhere
Sioux City	No	• Various location restrictions • Maximum billboard size is 288 to 672 sq. ft., depending on zoning district
Mason City	No	• An off-premises sign with an electronic graphic display message center may only be constructed to replace an existing off-premises sign • Maximum off-premises sign area is 300 sq. ft.
Waterloo	No	• Maximum billboard square footage of 300 sq. ft. by-right, or up to 672 sq. ft. with Special Permit granted by Board of Adjustment
Omaha	Yes	• Industrial Districts: remove at least three (3) existing signs totaling at least 3x the square footage of the electronic billboard to be installed • Other permissible zoning districts: remove at least four (4) existing signs totaling at least 4x the square footage of the electronic billboard to be installed • ACI (“area of civic importance) districts and Interstate corridors: remove at least five (5) existing signs totaling at least 5x the square footage of the electronic billboard to be installed • Remove one (1) existing sign at least equal in square footage for every new non-electronic billboard to be installed • Total number of off-premises sign locations, faces, and square footage is capped • Maximum billboard face area is 672 sq. ft., with certain exceptions.

Lincoln	Yes	• Remove three (3) nonconforming signs of equal or greater area to install a new electronic billboard • Remove one (1) nonconforming sign of equal or greater area in install a new static billboard • Maximum billboard size ranges from 300 to 700 sq. ft., depending on zoning district.

Based on the research presented above, the City's removal requirement for electronic billboards is not an outlier among our peers in Iowa and Nebraska. While some communities have less restrictive standards, some have more restrictive standards. Council Bluffs' current regulations are a middle ground among peer cities.

6. While the Community Development Department is most supportive of the existing billboard regulations, staff have drafted an alternative amendment that could be adopted if the City Planning Commission and City Council wish to reduce the removal requirement. Staff's amendment (full text in Attachment 'D') is summarized as follows:
    a. Eliminate removal requirement from Section 15.33.190(J)
    b. Add new Section 15.33.190(Q) to allow the installation of new electronic billboards and conversion of static billboards to electronic with no removal requirement, subject to all other regulations in the sign code, and prohibit the conversion of static billboards in any zoning district that does not otherwise permit billboards.
    c. Amend Section 15.33.190(D) to add "Highway 275 between Interstate 29 and the Iowa-Nebraska border" as a corridor where billboards are prohibited within 700 feet
    d. Amend Section 15.33.190(F) to reduce the maximum sign area for Interstate-oriented billboards from 875 feet to 672 feet. The standard highway billboard size is 672 square feet, or 14' x 48'. This amendment is being requested for consistency with other municipalities.
7. The amendments described above will eliminate the removal requirement for electronic billboards while preserving the attractiveness of the Highway 275 corridor, prohibit static-to-electronic billboard conversions outside of I-1, I-2, and I-3 industrial districts, and prohibit the installation of oversized billboards along Interstate corridors. All other existing spacing, siting, height, ground clearance, illumination, and other regulations for billboards would remain in place. Staff views this as a "compromise" solution that would reduce the burden on individuals and smaller entities wishing to install electronic billboards while protecting the appearance of non-industrial areas and preventing regulations that would result in inefficient use of staff time. However, the amendment would eliminate a useful tool the City currently uses to ensure that nonconforming billboards are removed over time.
8. The City's mission is "to continuously improve the quality of life and attractiveness of the City of Council Bluffs." Billboards and other off-premises signs do not contribute positively to the attractiveness of the City, as they can be distracting and unpleasant to look at. Due to the light they produce, electronic billboards can often be more distracting and unsightly than their static counterparts, and it is in line with the City's mission to have strong standards to limit the proliferation of this type of signage. While staff understands the applicants' concerns regarding the obstacles they face in erecting an electronic billboard on their property, the Zoning Ordinance must promote the public interest rather than individual business interests. The Community Development Department believes that the current billboard regulations best promote the public interest and fulfill the City's mission.

All other departments and utilities were notified of the applicant's request. The Mayor's Office provided a memo stating support for the existing billboard regulations, opposition to the applicant's proposed amendment, and a preference to adopt staff's alternative amendment if the City Planning Commission and/or City Council decide to support changing the existing ordinance. The memo is included as Attachment 'E.' No other departments or utilities provided comments in opposition.

Recommendation

The Community Development Department recommends denial of the request to amend Section 15.33.190(J) of the Municipal Code (Zoning Ordinance) as presented by the applicants.

Furthermore, the Community Development Department recommends making no changes to the aforementioned code section. However, if the City Planning Commission and/or City Council decide amendments are necessary, the Community Development Department recommends approval of staff's alternative amendments.

Public Hearing

Staff speakers for the request:
1. Brandon Siracuse, Planner, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503
2. Christopher Gibbons, Planning Manager, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor:
1. Andrew Morris, Andrew Morris, 25017 Emile Court, Waterloo, NE 68069
2. Weston Morris, 1527 Chestnut Drive, Council Bluffs, IA 51503

Speakers against: None

The City Planning Commission recommended approval to amend Section 15.33.190(J), Off-Premises Signs (Billboards) of the Municipal Code (Zoning Ordinance) as per Attachment 'D' of the case staff report.

VOTE: AYE – Bass, Bailey, Hutcheson, Knauss, Opperman, Rater, Rew, and Stroebele. NAY - Van Houten ABSTAIN – None. ABSENT – None. VACANT - Two Motion: Carried.

Attachments

Attachment A: Rendering of Applicant's Proposed Sign
Attachment B: Existing Section 15.33.190
Attachment C: Applicant's Proposed Amendment
Attachment D: Staff's Alternative Amendments
Attachment E: Memo from Mayor's Office

Prepared by: Brandon Siracuse, Planner, Community Development Department