

## City of Madison, Wisconsin

**ID NUMBER:**

to give the industry every courtesy to keep existing and to allow new signs to go up, counter to the intent of the 1970s. When an ordinance is written to deal with aesthetics, this isn't anything to do with content. The limit has expanded over time with various settlements. Now they are requesting improvements to the billboards that were grandfathered in; that's not the way Zoning works. If something is grandfathered in it eventually goes out of existence rather than being improved or heightened. One thing that is true: Adams is a second-class citizen; you're a second class citizen because you don't pay your fair share of property taxes. Court agreements have looked at Adams' valuation not on the income generated but in the actual value of the billboard. Adams has put themselves into this position. What the Commission has in front of them today is a bullying tactic: "do this for us or we'll take you to court." We've seen enough bullying on the national stage, we don't need it in our City too. There is plenty of signage allowed in the ordinance and we can't roll over to this bullying tactic.

Lara Mainella, Assistant City Attorney responded briefly to Adams' presentation. The Chair was correct in saying that this administrative body is not here to decide the constitutionality of the City's sign ordinance. There are cases in Wisconsin law that set forth this concept. It is not the Commission's purview to say that the City's sign ordinance is unconstitutional and therefore we are going to grant all of these permits. It is incorrect for Adams to say that if the Commission grants the appeals, that will somehow save the City from a lawsuit. The City is responding to the Federal lawsuit in Federal court, which is the appropriate venue for handling those appeals. Because the appeals are on the Commission's agenda they will have to take action on them; Tucker is prepared to give a presentation on why he denied these permits or answer any questions about why these were denied.

The Chair noted that the Commission has a packet of letters for each appeal item, and should therefore make motions on each separate item. Chair Wagner has been consulting with City Attorney John Strange as to how the Urban Design Commission should handle these denials. The question before the Commission is should this body overrule the Zoning Administrator, or sustain the decision of the Zoning Administrator? A "yes" vote would be an override and a "no" vote would be sustaining the Zoning Administrator's denials.

Goodhart: Constitutional issues aside, on this issue can you tell us where the Zoning Administrator was in error of interpreting the ordinance that is in place? The applicant responded that they think the ordinance is unconstitutional; the ordinance on the books shouldn't be on the books. Whether or not he erred is immaterial. Goodhart disagreed; the Chair stated that this is the matter that is actually before this body. When Adams looked at this list of 22 items they wanted to make sure that their product stays viable for their customers. Goodhart replied that his question was about the appeal process, there is a procedure spelled out in the ordinance about how to appeal and on what grounds to appeal Zoning Administrator decisions. One of those criteria is that the applicant has to demonstrate to the Commission how the Zoning Administrator was in error of the interpretation of the ordinance. The applicant hoped to demonstrate that through discussion, but admitted they did not have any examples of actual errors, but they feel like each is worth examining specifically.

Goodhart moved that the applicant's request for reconsideration be denied. The Chair noted that that would change the nature of vote from what City Attorney Strange was suggesting. Goodhart then agreed to vote in favor of the appeal; the motion as suggested would be whether or not the Zoning Administrator should be overruled. If the Commission votes on that motion and denies it, then the appeal is denied. Adams stipulated that they would not add any additional facts into the record.

### **ACTION:**

A motion was made by Braun-Oddo, seconded by O'Kroley, to move that the action of the Zoning Administrator be **DENIED**. There was no discussion on the motion. The motion was failed on a vote of (5-0) to

deny the appeal of the Zoning Administrator for reasons set forth in the denial letter, with Braun-Oddo, O’Kroley, Goodhart, DeChant and Rosenblum voting no; and Chair Wagner non-voting.