

CITY COUNCIL MEETING OF
February 2, 2011
COMBINED VERBATIM TRANSCRIPT ITEMS 64 and 65

VAR-39433 ABEYANCE ITEM VARIANCE PUBLIC HEARING APPLICANT: LAMAR CENTRAL OUTDOOR, LLC OWNER: D&W, INC. REQUEST FOR A VARIANCE TO ALLOW A 65-FOOT TALL OFF-PREMISE SIGN WHERE 50 FEET IS THE MAXIMUM HEIGHT ALLOWED on 14.49 acres at 120 North Jones Boulevard (APN 138-25-404-004), C-1 (Limited Commercial) Zone, Ward 1 (Tarkanian).

SUP-39432 ABEYANCE ITEM SPECIAL USE PERMIT RELATED TO VAR-39433 PUBLIC HEARING APPLICANT: LAMAR CENTRAL OUTDOOR, LLC OWNER: D&W, INC. Request for a Special Use Permit FOR A PROPOSED 65-FOOT TALL 14-FOOT X 48-FOOT OFF-PREMISE SIGN at 120 North Jones Boulevard (APN 138-25-404-004), C-1 (Limited Commercial) Zone, Ward 1 (Tarkanian).

Appearance List:

OSCAR B. GOODMAN, Mayor

JENNIFER LAZOVICH, Attorney. 8345 West Sunset Road

JIM LEWIS, Deputy City Attorney

STEVEN D. ROSS, Councilman

GARY REESE, Councilman

BRYAN SCOTT, Assistant City Attorney

LOIS TARKANIAN, Councilwoman

TODD FARLOW, Las Vegas resident

ANTHONY HODGES, Las Vegas resident

15 minutes

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MAYOR GOODMAN

Items 64 and 65. Sixty-four is VAR-39433. Request for a Variance to allow a 65-foot tall off-premise sign, where 50 feet is the maximum height allowed. Sixty-five is SUP-39432. Request for a Special Use Permit for a proposed 65-foot tall, 14-foot by 48-foot off-premise sign. The applicant is Lamar Central Outdoor, LLC and the owner is D and W, Inc. The project is located on 14.49 acres at 120 North Jones Boulevard. The Planning Commission recommends approval and staff recommends denial of both items. These items are in Ward 1 and they're public hearings, which are now declared open. Are you representing the applicant?

JENNIFER LAZOVICH

I am.

MAYOR GOODMAN

Okay.

JENNIFER LAZOVICH

Good afternoon. Jennifer Lazovich, 8345 West Sunset Road, here today on behalf of Lamar Advertising. We will be requesting that Items 64 and 65 be held and not heard today. Before we request the hold, we would like to thank Jim Lewis for meeting with us, and we need to confirm our understanding of your City Attorneys position with regard to these items.

It's our understanding that, one, no action can be taken by this City Council on VAR-39433 or SUP-39432 until the existing billboard that is located on APN 138-25-404-008 is removed by Lamar. While, technically, the application should not have been accepted by the City, since the existing billboard is located within 750 feet of the location of the proposed billboard, the applications for the proposed billboard were, in fact, accepted, processed and have been heard and approved by the Planning Commission. Because of this, the City Attorneys determined that while our applications for the proposed billboard can proceed before there can be any action by the City Council on these items, applications, the existing billboard must be removed.

Contrary to what the property owners representative, where the existing billboard is located, may have been told, once the existing billboard is removed, the property owner does not have the right to erect a new billboard within 12 months. And therefore, once the existing billboard is removed, this Council will be free to act on the present applications. We would respectfully ask that the City Attorney correct us if we have in any way misunderstood or misstated anything.

MAYOR GOODMAN

All right. Fine. Did you wanna be heard, Mr. Lewis?

JIM LEWIS

Very briefly, Your Honor. She the applicant is correct. The fact of the matter is, there was a condition on the existing billboard, SUP, that indicates that upon voluntary demolition of that board, that a new SUP would be required on that site. That supersedes, that specific condition supersedes a general condition in our Code that says, you have 12 months in which to re-erect without a new SUP. Therefore, if Lamar removes their billboard on the current site, this Council may act, if it chooses, to approve the new SUP.

MAYOR GOODMAN

All right. Thank you. Councilman Ross?

COUNCILMAN ROSS

So, am I understanding this correctly, then? We're gonna make them take that board down and then, maybe, approve another SUP? That's a little backwards, isn't it? I mean, why can't we give them the SUP and let them erect the new board and tear the old board down when they're done?

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JIM LEWIS

Well, that would certainly be within this Boards discretion. My advice, however, is because of the way the condition is worded, that there would still be an existing billboard within 750 feet from when youre asked to hear the item. And, therefore, that item would not be valid.

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COUNCILMAN ROSS

Okay. Miss, Mayor if I may? Miss Lazovich, this board is gonna replace the old one, correct? Is that the idea?

JENNIFER LAZOVICH

Thats correct. This board will replace the existing board; the only difference will be that this board will have power to it, whereas the current billboard does not have power to it right now.

COUNCILMAN ROSS

So, the City is making your applicant tear the old one down and, maybe, they get a new one, in the other location? I mean, am I essentially correct in that, Mr. Lewis?

JIM LEWIS

Correct. Yes.

COUNCILMAN ROSS

Thats a little difficult (inaudible)

JIM LEWIS

Well, were not making, excuse me, if I can clarify. Were not making them, Lamar do anything. The applicant has come in with a request for a new Special Use Permit

COUNCILMAN ROSS

Okay. For a new board.

JIM LEWIS

for a new board. If Lamar chooses to move forward with the new application, the condition on their old board is that that one must first be removed.

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COUNCILMAN ROSS

Oh, okay.

JIM LEWIS

So, were not making them do anything

COUNCILMAN ROSS

So

JIM LEWIS

Its at their discretion.

COUNCILMAN ROSS

Okay, and I understand that, too, but, Mayor, if I can. So, if the applicant did a review of condition on the old board, withdrawing that condition, they can move forward and build a new board and then tear the old one down? Im just a little confused here as to why the City would require a business to tear something down and, maybe, be allowed to build it next door.

COUNCILMAN REESE

They are not required to tear it down.

COUNCILMAN ROSS

No, no, theyre asking to. Were not requiring.

COUNCILMAN REESE

No, they want a new one.

BRYAN SCOTT

Mayor, I mean

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MAYOR GOODMAN

Yes.

BRYAN SCOTT

Councilman, if I may.

MAYOR GOODMAN

Yes, Mr. Scott.

BRYAN SCOTT

The Councilman, the Mayor, the City is not requiring or making them tear down anything. They can keep the current board up at the current location; its just doesnt have power. They want to build a bill, a billboard with power and with lights on it.

COUNCILMAN ROSS

Right, I get that.

BRYAN SCOTT

The current owner is not allowing them to do that. So, theyre saying, and so, because they cant make an agreement with that owner, theyre choosing to build it on the adjacent property. The condition that they agreed to, when they built the billboard currently

COUNCILMAN ROSS

The first one.

BRYAN SCOTT

is that, that that would be expunged if they voluntarily took it down. So, were just following the condition that was placed upon the board at the time it was erected.

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COUNCILMAN ROSS

But back to my first, my last question, they can always do a ru, a review of condition on the last, on the first board, to have that withdrawn; am I correct?

BRYAN SCOTT

But what would, that wouldnt really do anything. All it would say is that theyd have to go, I guess, they could say, if you expunge that condition, they would then go back to what Title 19 says, which is what they would have a one-year period of time in which that SUP would remain and they could never build that board on the adjacent property, because that SUP would still exist on the current property.

COUNCILMAN ROSS

Al right, I --

BRYAN SCOTT

So, expunging it doesnt really do anything.

COUNCILMAN ROSS

I just think sometimes were being business restrictive.

BRYAN SCOTT

And Im not sure why that condition was placed on the board, so, I mean, I, wed have to go back to the history. The Council placed that condition; Im not sure exactly why that condition was placed on this particular (inaudible).

COUNCILMAN ROSS

Well, I know this is in Councilwomans Ward, Mayor, and Councilwoman, with all due respect, if you recall, there was a time period when we had, I used the one-year report review on billboards for throughout the City, but oftentimes, it was very difficult for the industry to do business because its difficult to plan on a 12-month basis with your business.

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COUNCILWOMAN TARKANIAN

Right.

COUNCILMAN ROSS

Some locations billboards are in great locations; others, they're not. And you know that fully. So, again, it just seems to me that we're just being business restrictive, if you will, to not allow the applicant to do what they need to do for the benefit of their business. Thank you, Mayor.

COUNCILWOMAN TARKANIAN

I believe that the lawyers on both sides are talking with each other, and they will be working something out, and, they're not going to work anything out, she says, okay. Be that as it may, I think one of the problems is this, the fact is, my understanding is, the owner of the sign, Lamar Advertising, wanted to have electricity at that sign, and the owner of that property would not let him.

JENNIFER LAZOVICH

Yes.

COUNCILWOMAN TARKANIAN

Now, I spoke with that owner yesterday, and he insisted more than once that he would never not sign for that because, why would he, it isn't, you know, it isn't good business or so forth. So, then, I said, I will ask you if you have any documentation or anything signed, you know, or e-mails or anything where he said you could not have the electricity, which would clear up the point. I'm just trying to make it very clear, because he can't, he feels, you know, that he's been, somebody is maneuvering against him, and I told him that you feel, Lamar feels that it's the fact that they haven't been able to work with him because he's kept electricity from them for so long. And I told him, I saw the pictures, you cannot see that sign at night; you can see the three other signs, you can't see that sign at night. So, I told him, a good part of the time, people are watching the sign, or would be seeing it, you can't see it. And he said, well, would that be cause to be able to let them go ahead and build this? And I said yes, it would be, it could be a cause, in my mind. As far as what the legal people say, I do what they say, but as far as any interpretation I would make, I feel the fact that if you were kept from using your sign for the upmost value you could, that, and it was purposely done, then that would make a difference in the decision. So, I'm asking you, because he's denying that this happened, could you just give me something that shows that he did deny it?

JENNIFER LAZOVICH

We will go back and look in the time period before this comes back to the Council for a full discussion. I will tell you that Scott Naftzger, who works for Lamar, I've known him for a long time, he is in charge of the leasing of all their boards and he had had or attempted to have numerous conversations and dialogue with the property owners attorney. We have faxes that we can show you that four years ago we sent over, but we never got power to the board.

COUNCILWOMAN TARKANIAN

Oh, I know that.

JENNIFER LAZOVICH

we never got the easement signed.

COUNCILWOMAN TARKANIAN

It doesn't have power now.

JENNIFER LAZOVICH

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Right.

COUNCILWOMAN TARKANIAN
I know that.

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JENNIFER LAZOVICH

And the only reason, I guess, I say is, it is in Lamars best interest to have power to that board and for two of those four years, at their cost only, they put a generator on the board to the tune of \$50,000

COUNCILWOMAN TARKANIAN

Fifty thousand a year, right

JENNIFER LAZOVICH

each year, for a total of 100,000, so it would never have been in their best interest to not pursue requesting power to the site

COUNCILWOMAN TARKANIAN

Right.

JENNIFER LAZOVICH

cause they were, in fact, losing money on the board.

COUNCILWOMAN TARKANIAN

And in fact, I just wanted to tell, Jennifer, that

JENNIFER LAZOVICH

Yeah.

COUNCILWOMAN TARKANIAN

the sheet that you gave me, that, what seemed to me as innocuous as you get with a public utility

JENNIFER LAZOVICH

Right.

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COUNCILWOMAN TARKANIAN

that he, you know, you said, that he would not sign, I showed him that and I said, why wouldnt you sign this? And he said, well, he was never asked to sign or stuff like that. So, I just wanted to make it a very clear cut that this had occurred.

JENNIFER LAZOVICH

Thank you.

COUNCILWOMAN TARKANIAN

Thats all.

JENNIFER LAZOVICH

We tried. I mean

COUNCILWOMAN TARKANIAN

And I felt you could do that, because, Im sure, you had communication.

JENNIFER LAZOVICH

We, yes, and again, Ill have, I go back and ask Scott to see what he can find, but I can assure you it was in our best interest to try to get power to that board. So, we did have multiple attempts, but, unfortunately, the easement was never signed that NV Energy needed, on behalf of the property owner, therefore, we could not get power to the sign (inaudible).

COUNCILWOMAN TARKANIAN

And hes saying he never got that, it was never brought to him, and then I said to him, well, well find some documentation and show you what occurred.

JENNIFER LAZOVICH

We will look for something.

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COUNCILWOMAN TARKANIAN

And I hope, it did go to him, Im assuming?

JENNIFER LAZOVICH

What I, what my understanding is, is there was an initial conversation from Scott Naftzger to the property owner. The property owner then directed Scott to work with his attorney and conversations after that occurred, or were attempted to have been taken place between Scott and the applicant, or the property owners attorney. So there might not

COUNCILWOMAN TARKANIAN

Cause his response to me was, why would I, why wouldnt I want them to have electricity? So, thats why I just felt for us not to get into any convolution afterwards if we had something to just show that he was aware, and that you had asked. And thats why, and my understanding is Jay Brown cannot be here in two weeks, so **I would move for the abeyance, as you requested, to make it 30 days.**

JENNIFER LAZOVICH

Okay.

COUNCILWOMAN TARKANIAN

So then he could be here, too. I thought

JENNIFER LAZOVICH

Yes.

COUNCILWOMAN TARKANIAN

he might be here today, but he wasnt.

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MAYOR GOODMAN

Al right, before the vote, Mr. Farlow, did you wanna be heard?

TODD FARLOW

Yes, I have a question and a comment. Just for general purposes, if the current sign was taken down, does that use permit still, does the, does that property owner still have that special use permit? Can he bring in another sign company to build a sign?

MAYOR GOODMAN

No, he cant.

JENNIFER LAZOVICH

No.

TODD FARLOW

No, he cant?

MAYOR GOODMAN

No. Once

TODD FARLOW

Second

MAYOR GOODMAN

its done, its, the use is gone.

TODD FARLOW

Thats it. Comment is that all billboards should have neon on em. Thank you.

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MAYOR GOODMAN

Okay. Anybody else? Mr. Hodge (sic).

ANTHONY HODGES

My name is Hodges, (inaudible) Sir David. Im not in defend, Jennifer, Im just saying good luck, whatever.

MAYOR GOODMAN

Okay. Anybody else wanna be heard? All right, hearing none, the Councilwoman has made a motion to abey for 30 days, lets vote on that, please.

COUNCILWOMAN TARKANIAN

And I wanted to say, I wanted to thank you, Jennifer, and, Chris, for the help that youve given and the information that youve given me so that I can use it to show the individual that, the way we were going.

JENNIFER LAZOVICH

Thank you.

MAYOR GOODMAN

Okay. Lets vote, please. Post. Motion carries. **(Motion carried with Wolfson excused).**
Thank you.

JENNIFER LAZOVICH

Thank you.

(END OF DISCUSSION)

/ac;gpb