

MEETING DATE: December 10, 2014

PREPARED BY: M Jones

PRESENTED BY: M Jones

AGENDA ITEM SUMMARY REPORT

APPLICATION NO.: Sign Permit (SA 29-14)

APPLICANT: Hillary White/Understuff

OWNER: Hillary White

REQUEST: Sign Permit SA 29-14 for Understuff

LOCATION: 410 N Main Street.

APPEALABLE PROJECT: Can be appealed to City Council

PROJECT BACKGROUND

The applicant moved her store from Franklin Street to Main Street in 2014. The applicant's proposed sign is similar in style, size and design to the Franklin Street sign, which served the business at its prior location for many years without a single complaint from the public.

The proposed sign conforms with all requirements of the Land Use and Development Code in terms of size, placement, location, colors, materials and design.

RELEVANT CODE

The only issue for the Planning Commission's consideration is whether the sign could be considered obscene or not. If the Planning Commission considers the sign obscene it would not be permitted by the Land Use and Development Code under section 18.38.050.

The Land Use and Development code does not include a definition of obscene. Therefore staff turned to a Supreme Court ruling for a definition of obscene. In the United States, the 1973 ruling of the Supreme Court of the United States in *Miller v. California*, 413 U.S. 15 (1973) established a three-tiered test to determine what was obscene—and thus not protected, versus what was merely erotic and thus protected by the First Amendment. Delivering the opinion of the court, Chief Justice Warren Burger wrote:

“The basic guidelines for the trier of fact must be: (a) whether the average person, applying contemporary community standards would find that the work, taken as a

whole, appeals to the prurient interest; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.”

Staff has reviewed the proposed art work for the sign and does not find it to be obscene. Staff based this determination on the fact that the proposed art work is very similar in style to the previous Understuff sign, which did not result in community controversy. Thus existing community standards found that the sign was acceptable on Franklin Street, and therefore it should be acceptable on Main Street. Additionally, the proposed sign would have more understated colors (black, greys and whites) than the previous sign on Franklin Street. Finally, staff finds that the sign offers artistic value and that it does not appeal to prurient interests.

PLANNING COMMISSION ACTION

1. Approve the proposed Understuff sign (Sign Permit SA 29-14).

ALTERNATIVE ACTIONS

1. Deny the sign permit or
2. Approve the sign permit with modifications to the design

RECOMMENDATION

Staff recommends approval of sign permit SA 29-14 based on the following findings:

Findings for Approval

1. The proposed signs do not exceed the standards of Sections 17.38.070 & 18.38.070 (Zoning District Sign Standards) and 17.38.080 & 18.38.080 (Standards for Specific Sign Types) and are of the minimum size and height necessary to enable pedestrians and motorists to readily identify the facility or site from a sufficient distance to safely and conveniently access the facility or site;
2. The placement of the sign on the site is appropriate for the height and area of a freestanding or projecting sign;
3. The projecting sign relates to the architectural design of the structure.
4. The proposed sign does not unreasonably block the sight lines of existing signs on adjacent properties;
5. The placement and size of the sign will not impair pedestrian or vehicular safety;
6. The design, height, location, and size of the signs are visually complementary and compatible with the scale and architectural style of the primary structures on the site, any prominent natural features on the site, and

- structures and prominent natural features on adjacent properties on the same street;
7. The proposed signs are in substantial conformance with the design criteria in Subsection 17.38.060.F (Design Criteria for Signs) and the Signs chapter of the Citywide Design Guidelines; and
 8. The proposed sign is not obscene.

ATTACHMENTS

1. Site location map
2. Franklin Street sign
3. Proposed sign
4. Email from Amy Wynn 12-5-14
5. Letter from Sheila Strickmeyer 12-8-14
6. Email from Kerry Hagan 12-8-14