



MEMORANDUM

To: Mayor and City Council

From: Michael Tuller, Community Development Director

Date: December 13, 2010

Subject: Amendment to Sign Ordinance for Amortization of Non-Conforming Signs

BACKGROUND

At the October 25 Mayor and Council Meeting, Councilmember Wittenstein directed staff to look into "sunset" provisions for legal non-conforming signs.

ANALYSIS

Municipalities handle the "sun-setting" of nonconforming or undesirable structures and/or uses through amortization provisions. Amortization is the process whereby a jurisdiction provides a time period for all legally non-conforming signs to come into compliance. The American Planning Association (APA) offers research and best practices for amortization in a guidebook entitled Context Sensitive Signage Design. In short, the APA establishes that only eight states specifically authorize amortization, and Georgia is not one of them. In the states where it is authorized, the time period allowance is the key issue because it must be long enough to allow the sign owner to obtain a reasonable return on their investment—the time period is not consistent among ordinances or case law, but some courts have found amortization to be just compensation.

RECOMMENDATION

Considering the courts have mixed views on the constitutionality of amortization provisions, staff and legal do not recommend the amendment. Furthermore, some caselaw suggests that the removal requirement creates a taking which, effectively, will require the City to pay just compensation to sign owner who can show damages, and increasing significantly the City's litigation costs. If the amendment were passed, the recommended text would be as follows:

Amortization of Nonconforming Signs

- (1) All signs which become nonconforming by the provisions of any ordinance, shall be removed, altered or repaired to conform to the provisions of this ordinance, within an amortization period of seven (7) years after the effective date of this provision.
- (2) Any sign which has been granted a variance from the Sign Code prior to the effective date of this provision shall be exempt from amortization unless a change in

#1.9.



occupancy, tenant, and/or signage occurs that results in the removal of the existing sign. Upon removal of any existing sign, the installation of any new sign shall be subject to the provisions of this provision. Repair and maintenance may be permitted as prescribed in Section 20-61.

- (3) Any sign lawfully existing or under construction on the effective date hereof which does not conform to the provisions of this chapter may request a variation to this requirement outlined in Section 20-65, "Variances", of this Chapter.