

CITY PLANNING COMMISSION AGENDA

STAFF: KURT SCHMITT

FILE NO(S):
CPC AP 17-00104

PROJECT: **APPEAL OF NOTICE AND ORDER TO ABATE SIGN CODE VIOLATION**
1624 NORTH ACADEMY BOULEVARD

APPLICANT: **KIT JACOBSON, AIM, INC.**
OWNER: **1512 ACADEMY, LLC**



PROJECT SUMMARY:

1. **Project Description:** This is a request to appeal the Notice and Order to abate the sign code violation issued to the tenant at 1624 North Academy Boulevard and to the property owner, 1512 Academy LLC, by certified mail on/or about June 28, 2017 for violations of multiple non-compliant temporary banner signs where temporary signs are prohibited in a commercial shopping center with electronic message center signs. City Code Section 7.4.409(B)(3)(g), *Additional Criteria for Major Sign Types* reads: "Temporary signage shall be prohibited on any property that has an approved Electronic Message Center". The property is zoned PBC (Planned Business Center) and is located between the north and south-bound Academy Boulevard corridor, south of La Salle Street and north of Palmer Park Boulevard within the Polo Center.
2. **Applicant's Project Statement:** (FIGURE 1)
3. **Community Development Department's Recommendation:** Staff recommends the City Planning Commission uphold the Notice and Order and deny the appeal.

BACKGROUND:

1. **Site Address:** 1624 North Academy Boulevard
2. **Existing Zoning/Land Use:** PBC (Planned Business Center) (3.38 acres.)
3. **Surrounding Zoning/Land Use:**
North: PBC/Service Station, Fuel station
South: SU/PBC/Check Cashing, Liquor Store
East: PBC/Restaurant, Jewelry, Tire Store, Church
West: R-1-6000/SFR - Residential
4. **Comprehensive Plan/Designated 2020 Land Use:** Mature Redevelopment Corridor
5. **Annexation:** The property was annexed in 1959 as part of Austin Bluffs Addition #8
6. **Master Plan/Designated Master Plan Land Use:** There is no master plan for this property
7. **Subdivision:** Unplatted
8. **Zoning Enforcement Action:** Non-compliance with City Code Section 7.4.409(B)(3)(g), *Additional Criteria for Major Sign Types*. Temporary signage shall be prohibited on any property that has an approved Electronic Message Center.
9. **Physical Characteristics:** The property is located between the north and south-bound Academy Boulevard corridor, south of La Salle Street and north of Palmer Park Boulevard within the Polo Center. The tenant is within a commercial center that is visible from north and south-bound Academy Boulevard and the property dimensions measure 207 linear feet wide by 685 linear feet from the north to south end of the property.

STAKEHOLDER PROCESS AND INVOLVEMENT:

No stakeholder process was required. The Notice and Order to abate the sign code violation was issued to the property owner as a result of a site inspection that took place on June 20, 2017. The site was recorded to be in violation of the city sign code and photos were taken of multiple banners on the north, east and west elevations that were not in compliance. The banners in question related to a specific tenant within the multi-tenant commercial center.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

1. **Background:**
In 2012 the City Sign Ordinance was re-codified and a sign enforcement program was established with the goal to reduce the proliferation of illegal and unpermitted signage within city limits. As part of this program inspections are performed throughout the city and locations are issued notifications if the property is found non-compliant with City Code requirements pertaining to signage. On June 14, 2017, an inspection was performed at 1624 North Academy Boulevard (within the Polo Center). The specific tenant, Aim, Inc., was cited to have multiple temporary banner signs displayed on the north, east and west elevations of the building. (FIGURE 2)

Per City Code Section 7.4.409(B)(3)(g), commercial centers or properties that incorporate an Electronic Message Center are prohibited to display temporary signs, such as banners, inflatables or A frames. An Electronic Message Center (or EMC) is defined as:

A sign that is capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

In August of 2012 the Polo Center legally permitted two EMC's; one on the western property frontage facing south-bound traffic on Academy Boulevard (**FIGURE 3**) and one on the eastern property frontage facing south for the north-bound Academy Boulevard traffic. As part of the requirements for approval, the property owner was required to submit an Electronic Message Center Compliance Affidavit identifying the compliance criteria that must be maintained for the approval of these signs (**FIGURE 4**). This affidavit notes that temporary signage is prohibited on any property that has an approved EMC. This is not tenant specific, but property specific. The owner formally acknowledges the EMC criteria with the signing of the affidavit.

On June 23, 2017 a Notice and Order to abate was issued to the tenant at 1624 North Academy Boulevard by standard mail service and to the property owner, 1512 Academy LLC, by certified mail. Per this Notice and Order the property was found to be in violation of City Code Section 7.4.409(B)(3)(g) and advised to abate the violations on the property by removing all temporary banners. (**FIGURE 5**)

During the period between July 6th through July 11th 2017 correspondence was established with the business manager of Aim Inc., the tenant with the temporary sign violation, through a series of phone messages, emails and phone conversations (**FIGURE 6**). Details of the violation were discussed and comments made by the tenant indicated that they didn't realize there were regulations for banners. Staff explained to the tenant the regulations related to the display of banners at a commercial center where an EMC is displayed. Staff recommended the tenant utilize the existing windows on the north, east and west tenant frontages for temporary signs until they are able to properly permit permanent signage.

On Monday, July 10th, the tenant contacted staff with questions related to City Code Section 7.4.409(E), Temporary Signs, (**FIGURE 7**) and indicated the intent to properly permit the non-compliant signs legally through the temporary banner criteria. Staff explained to the tenant that under the standard code criteria, banners are permitted as temporary signs and are regulated by a limited display time period of 90 days per year. However, the tenant was reminded that the tenant space was within a commercial center where two EMC's were permitted and that code prohibits the use of temporary signs under these conditions. (**FIGURE 4**)

On Tuesday, July 11th, the tenant indicated they would contest the City's notification for sign code violation and requested information on the appeal process. The tenant has indicated that the lease agreement specifies that they are denied access to the EMC. The tenant argues they are being punished by not being allowed to display the banners that are currently on the tenant building.

2. Current Signage Status:

The applicant states that the two EMC's that are within the commercial center that are prohibiting the tenant from displaying the temporary banners are not available for their use per the lease agreement and feel they are being penalized because they have no authority or ability to manage information on the EMC (again, per the private lease agreement within the commercial center).

City Code regulates signage based on placement and property as a whole. Therefore, the sign code does not address private lease stipulations but would rely on the owner to manage on-site signage between tenants.

Aim Inc. currently has a total of fifteen temporary banners; five banners per elevation with a total combined area of 996 square feet. Under standard code, in circumstances where banners would be

permitted when no EMC is established, the criteria would allow up to 242.25 square feet of temporary banner signage combined for this tenant space. Therefore the tenant does not meet any code requirements for temporary signage.

The Code calculates the temporary sign allowance as up to .75 square feet per linear foot of elevation. By using this calculation the east and west elevations would be allowed up to 92 square feet of temporary banner signage and 60 square feet on the northern tenant frontage. Each elevation is currently displaying 332 square feet of temporary signage which would not be approved through a formal review if there were no circumstances prohibiting the display of these signs (i.e. the EMC for the commercial center). Significantly more temporary signage is displayed than is allowed per any section of the sign code.

City Code does include allowances for window signage per Section 7.4.409(C), *Minor Sign Types/Window Signage*; this tenant would be permitted to display signage in their windows up to 25% total coverage per elevation. Based on window sizes the tenant would be allowed 32 square feet of window signage on the north, 113 square feet on the east and 133 square feet on the west totaling 277 square feet of total window signage. Per multiple recommendations to bring the property into compliance, the tenant would actually be allowed more signage square footage in their windows than would be legally permitted for temporary banners which are prohibited.

Upon inspection and notification of the sign code violation the current non-conforming banners will have been displayed 64 days at the date of the City Planning Commission hearing.

Staff finds that the Notice and Order to Abate meets the criteria as set forth in City Code.

3. Conformance with the City Comprehensive Plan:
Not applicable to a notice and order
4. Conformance with the Area's Master Plan:
There is no master plan for this area.

STAFF RECOMMENDATION:

CPC AP 17-00104 - APPEAL OF NOTICE AND ORDER TO ABATE SIGN CODE VIOLATION

Deny the appeal and uphold the Notice and Order to Abate sign code violation issued at 1624 North Academy Boulevard on June 28, 2017, based on the finding that the Notice and Order complies with the review criteria as outlined in City Code Section 7.5.906(A)(4)