

Date of Meeting: January 19, 2011

**BOARD OF SUPERVISORS
TRANSPORTATION AND LAND USE COMMITTEE
ACTION ITEM**

SUBJECT: Zoning Ordinance Amendments ZOAM 2009-0003, Sign Regulations; ZOAM 2010-0002, Off-Site Directional Signs; and Amendments to the Schedule of Fees to Implement Revisions to the Sign Regulations

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: At the pleasure of the Board of Supervisors

DEPARTMENT DIRECTOR: Terrance Wharton, Building and Development

STAFF CONTACTS: Amy Lohr, Planner
Marilee Seigfried, Deputy Zoning Administrator
Teresa Miller, Planner

RECOMMENDATIONS:

Staff: Staff recommends the Transportation and Land Use Committee forward ZOAM 2009-0003, ZOAM 2010-0002, and the associated Amendments to the Schedule of Fees, as amended, to the February 15, 2011, Board of Supervisors Business Meeting with a recommendation of approval.

BACKGROUND:

On September 1, 2009, and February 17, 2010, the Board of Supervisors adopted Resolutions Of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance (“Zoning Ordinance”) to 1) revise and establish new regulations pertaining to commercial signage—zoning ordinance amendment ZOAM 2009-0003; and 2) add off-site directional sign standards for religious assembly and civic uses—zoning ordinance amendment ZOAM 2010-0002. [Attachment 1] In accordance with these Resolutions, staff prepared draft amendments to the Zoning Ordinance.

The Planning Commission held a public hearing on the draft amendments on October 6, 2010, and further considered the draft amendments at work sessions on October 13, and November 10, 2010. At its November 10, 2010 Work Session, the Planning Commission voted 9-0 to forward ZOAM 2009-0003 and ZOAM 2010-0002 to the Board of Supervisors with a recommendation of approval, and to send a list of additional recommendations related to the sign regulations to the Board for consideration. Draft amendments text as recommended by the Planning Commission

is included as Attachment 2, and the Planning Commission's additional recommendations are included as Attachment 3.

The Board of Supervisors held a public hearing on December 13, 2010, at which 11 speakers appeared before the Board. A summary of the verbal comments is included as Attachment 6 and written correspondence is included as Attachments 7 and 8. The Board voted 8-0-1 (Supervisor Burton absent) to forward ZOAM 2009-0003, ZOAM 2010-0002, and associated proposed Amendments to the Schedule of Fees to the Transportation and Land Use Committee for further discussion.

SUMMARY OF CHANGES TO TABLE 5-1204(D)(4), SIGN REQUIREMENTS MATRIX

The table below details the proposed and existing requirements as they relate to signs for commercial, office, and industrial uses in proposed Section (4) of the sign requirements matrix. [p. A19 to A25] Only those sections proposed to be substantially amended are listed in the table below. Examples of selected sign categories from Table 5-1204(D) are included as Attachment 5.

New Section 5-1204(D)(4)	Proposed Requirements: Area and Max. # of Signs	Existing Requirements: Area and Max. # of Signs
(a) Tenant Signs for Businesses in CLI, GB, PD-CC(NC), PD-OP, PD-RDP, PD-CV, PD-RV, & PD-AAAR	Total Aggregate: 2 SF / Linear Foot (LF) of Building Frontage Max. #: 2 / Façade; no more than 4 Max. Area any one sign: 60 SF	Requirements Vary: PD-CC(NC) used as example. Total Aggregate: 2 SF / LF of Building Frontage Max. #: 1 / Façade; no more than 3 Max. Area any one sign: 60 SF
(b) Tenant Signs for Businesses in PD-CC(CC), PD-CC(SC), PD-CC(RC), PD-SA, PD-TC, PD-TREC, PD-TRC, & PD-MUB	Total Aggregate: 2 SF / LF of Building Frontage Max. #: 2 / Façade; no more than 4 Max. Area any one sign: 200 SF	Requirements Vary: PD-CC(CC), PD-TC, PD-TREC, PD-TRC, & PD-MUB used as example. Total Aggregate: 2 SF / LF of Building Frontage, not > 60 SF Max. #: 1 / Façade; no more than 3 Max. Area any one sign: 60 SF
(c) Building ID/Tenant Signs - Office Buildings	No Aggregate specified Max. #: 2 / Façade; no more than 4 Max. Area any one sign: 1 SF / 100 SF of Building Façade	Total Aggregate: 160, 200, or 240 SF; depending on # of stories Max. #: 1 / Façade Max. Area any one sign: 40, 50, or 60 SF; depending on # of stories
(d) Ground Floor Tenants in Office Buildings	No Aggregate specified Max. #: 1 / Tenant Max. Area any one sign: 20 SF	Total Aggregate: 2 SF / LF of building frontage (counts against overall building ID sign) Max. #: 1 / Tenant Max. Area any one sign: 20 SF
(e) Directory Sign - Office Buildings	No Aggregate specified Max. #: 1 / Building Entrance Max. Area any one sign: 15 SF	N/A; new sign category

New Section 5-1204(D)(4)	Proposed Requirements: Area and Max. # of Signs	Existing Requirements: Area and Max. # of Signs
(f) Directory Sign in PD-CC(CC), PD-CC(SC), PD-CC(RC), PD-SA, PD-TC, PD-TREC, PD-TRC, & PD-MUB	No Aggregate specified Max. #: 2 / Development Max. Area any one sign: 25 SF	N/A; new sign category
(g) Flex/Industrial/Warehouse Buildings and Signs for Businesses in MR-HI, PD-IP, & PD-GI	Total Aggregate: ½ SF / LF of Building Frontage Max. #: 1 / Tenant Max. Area any one sign: 100 SF	Total Aggregate: 20 SF Max. #: 1 / Tenant Max. Area any one sign: 20 SF
(h) Auto Service Station (including convenience store, car wash & repair)	Total Aggregate: 100 SF Max. #: 6 Max. Area any one sign: 30 SF	Total Aggregate: 60 SF Max. #: 6 Max. Area any one sign: 20 SF
(l) Hotel, Motel, & Conference Center - (freestanding) Entrance Signs	Total Aggregate: 100 SF Max. #: 1 / vehicular entrance Max. Area any one sign: 50 SF	No Aggregate specified Max. #: 1 / vehicular entrance Max. Area any one sign: 20 SF
(m) Hotel, Motel, & Conference Center	No Aggregate specified Max. #: 2 / Façade; no more than 4 Max. Area any one sign: 1 SF / 100 SF of Building Façade	Total Aggregate: 90 SF Max. #: 1 / Façade; no more than 3 Max. Area any one sign: 40, 50, or 60 SF; depending on # of stories
(q) Restaurant/Car Wash Drive-Through Menu	Requirements to remain the same; change is to add "Car Wash" to sign category title	Total Aggregate: 30 SF Max. #: 2 Max. Area any one sign: 20 SF
(u) Window or Display Sign (Business) in conjunction with other sign categories	Max. #: 4 / Tenant Max. Area: 25% of the total square footage of window area, or 10 SF, whichever is less	N/A; new sign category
(v) Sidewalk Sign in conjunction with other sign categories	Max. #: 1 / Tenant Max. Area any one sign: 6 SF	N/A; new sign category

ISSUES:

At the December 13, 2010, public hearing, Supervisor Waters requested clarification on two issues specific to the proposed amendments.

1. Clarification on the recommended definition of "Sign"

The current definition of "sign" is: "Any device for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, but not including when standing alone, a flag, emblem, badge, or insignia of any governmental unit."

The proposed definition of "sign" is: "Any visual display that comprises letters, words, numerals, figures, logos, trademarks, symbols, emblems, devices, or illustrations, or any

combination thereof, which identifies a property, business, product, service, person, or entertainment, but not including, when standing alone, a flag, emblem, badge, or insignia of any governmental unit.” [p. A42]

An April 21, 2009, Action Item regarding amendments to the sign regulations stated that the definition of sign should be revised to clarify that a sign is not a use. It is staff’s understanding that the Sign Ordinance Volunteer Working Group (SOVWG) felt such a change was necessary in order to be able, as part of a legislative application, to propose sign types/sign categories that are not already identified in the Sign Requirements Matrix. Staff does not agree with this assessment. Staff maintains that the issue is not the definition of sign or whether “sign” is a “use”, but is whether the Board, in considering legislative applications for signs, shall be empowered to allow an applicant to receive approval for a sign type not otherwise specifically provided for in the matrix. This decision need not be confused with the definition of sign, which staff strongly recommends be adopted as proposed. Additionally, staff notes that the section of the Zoning Ordinance, 1-103(B) regarding the General Application of the ordinance regulates buildings, structures, and uses. If a particular sign is deemed to be neither a building, a structure, nor a use, then it may be argued to be exempt from the General Application of the ordinance.

2. Clarification on Off-Site Directional Signs

Further clarification was requested on how proximate an off-site directional sign must be to the facility in which the religious assembly use is meeting. The proposed additional regulations for this sign category do not specify a minimum or maximum distance. The proposed regulations read: “Signs limited to religious assembly uses located in leased facilities in Loudoun County without permanent signage. Signs shall denote only the distance to or direction of such use, and may be posted for a period not to exceed 24 hours before and 24 hours after an assembly use.” [p. A28] In accordance with the proposed definition for “Sign, Directional, Off-Site” an off-site sign is one not located on-site of the same parcel or on-site within the same development as the use to which such sign provides directions.

If desired by the Board, the additional regulations may be refined to address time of services. If so, staff suggests: “Signs limited to religious assembly uses located in leased facilities in Loudoun County without permanent signage. Signs shall denote only the distance to or direction of such use and a description of such use. Signs shall be posted for a period not to exceed 24 hours before and 24 hours after an assembly use.”

Finally, it is noted that, although the February 17, 2010, Resolution of the Board referenced both religious assembly and civic uses, the proposed draft limits off-site directional signs to religious assembly uses. Civic groups and non-profit organizations may obtain off-site temporary signs under the current regulations to announce an event of public interest, entertainment for charitable purposes, etc. Staff advised the Planning Commission of this during their review of the amendment. The Planning Commission and staff agreed that the amendment regarding off-site directional signs should be limited to religious assembly uses.

Supervisor Waters also requested that staff walk through the points raised by members of the public, as well as the SOVWG, at the December 13, 2010, public hearing. Those issues are:

1. Ability to request new sign categories through the legislative process [Also see Attachments 7, 8.b. and 8.c.]

Several speakers recommended allowing applicants to request sign types/sign categories that are not already identified in the Sign Requirements Matrix as part of a legislative application. This would occur if an applicant proposed a sign category that is not similar to an existing sign category. Staff had originally advocated for such a provision to be included in the Ordinance, and the Planning Commission public hearing language developed by the Signs Sub-Committee included a provision to allow new sign categories through the new Sign Development Plan process. However, at their work session, the full Planning Commission concluded that enough new sign categories were being added to matrix to offer a satisfactory range of options for commercial property owners, and that as new sign types arose, they could be added through zoning ordinance amendments so that appropriate restrictions could be developed. Further the Planning Commission was advised by the County Attorney's Office that creating an open-ended provision to permit any sign type, while legally permitted, would be inconsistent with the inclusive nature of the Loudoun County Zoning Ordinance.

Should the Board decide to allow for new, unlisted sign categories to be requested via a legislative application, staff offers the following language for Section 5-1202(B):

“Signs Permitted. Only signs as listed under “Sign Category” or otherwise provided for in Section 5-1204(D), Signs Requirements Matrix, shall be permitted, and such signs shall be subject to such regulations as are specifically set forth for each category and to all other regulations in this ordinance. No other signs shall be permitted, unless approved pursuant to a Sign Development Plan, as set forth in Section 5-1202(E).”

2. Create a minor special exception process for certain Sign Development Plans [Also see Attachments 7, 8.b. and 8.c.]

Several speakers recommended including a minor special exception process for Sign Development Plans that are minimal in scope, do not propose new sign types, and propose to amend an approved Sign Development Plan (or Comprehensive Sign Package).

The Signs Sub-Committee discussed allowing an approved Sign Development Plan (or Comprehensive Sign Package) to be amended via the minor special exception process. Ultimately, this proposal was not supported, as an amended Sign Development Plan could be dramatically different from the Sign Development Plan reviewed by the Planning Commission. Staff agrees that an amendment to an approved Sign Development Plan would not necessarily be minimal in scope.

Should the Board decide to allow for a minor special exception process for certain Sign Development Plans, staff suggests that minor special exceptions for revisions to approved Sign Development Plans (or Comprehensive Sign Packages) be limited to individual users that were either not contemplated in the approved Plan or that seek revision to a sign category in the approved Plan. Such revisions should be reviewed for consistency with the approved Plan and should not be a mechanism for a comprehensive or substantial amendment to an approved Plan. If new sign types are to be permitted through a legislative application, it is staff's recommendation that those should not be eligible to be approved through the minor special exception process.

3. Increase the square footage of "Window or Display Signs (Non-Business)" [Also see Attachment 8.a.]

The maximum area of any one sign in this category is 1 square foot. It was suggested that this be increased to 1.5 square feet to accommodate 11x17 sized posters, which are often placed in store windows to advertise civic activities. Staff is agreeable to this change given the total aggregate sign area for this category is 3 square feet. [p. A29]

4. Increase the number of home occupation signs allowed [Also see Attachment 8.a.]

A request was made to increase the permitted number of home occupation signs from 1/lot to 2/lot because more and more people are being encouraged to work from home. [p. A18] Currently, the maximum size of a home occupation sign is 2 square feet. This request was discussed by the Signs Sub-Committee of the Planning Commission, and instead of increasing the number of signs from 1 to 2, a provision was added to state that "signs may indicate more than one business." Staff and the Signs Sub-Committee felt that 2 square feet would be adequate to identify two home occupation uses on one sign. Staff maintains that this change is not necessary in support of home occupation uses.

5. Concern over the total number of signs allowed [Also see Attachment 8.d.]

The number of signs proposed to be permitted under the revised Sign Requirements Matrix is consistent with approved Comprehensive Sign Packages.

6. Concern over allowance for any type of digital/TV-type sign [Also see Attachment 8.d.]

Under the proposed text, electronic message signs are prohibited, except as specifically permitted with the approval of a Sign Development Plan. [p. A13] As Sign Development Plans are to be processed in accordance with the procedures for a special exception, the Planning Commission and Board of Supervisors would review the proposal. The Board would be able to impose conditions that eliminate or reduce impact to the motoring public and address other issues such as display time and lighting. The Board could approve the proposed text or, alternatively, the Board may opt to prohibit electronic message signs without exception.

7. Enforcement Procedures and the 30-day appeal period for Notices of Violation [Also see Attachment 8.d.]

Once a notice of violation has been issued, the *Code of Virginia* specifies that no fine shall be issued until the appeal period has expired, i.e. 30 days. A member of the public commented that this process is not a timely or effective method for dealing with sign violations. For example, a property owner who has placed an illegal banner on a property has 30 days to comply with the Ordinance and may not be fined during that time period. The *Code of Virginia* does however, in § 15.2-2286.A.4., authorize a 10-day appeal period as follows:

Notwithstanding the provisions of § 15.2-2311, a zoning ordinance may prescribe an appeal period of less than 30 days, but not less than 10 days, for a notice of violation involving temporary or seasonal commercial uses, parking of commercial trucks in residential zoning districts, maximum occupancy limitations of a residential dwelling unit, or similar short-term, recurring violations.

A 10-day appeal period for sign violations that may be characterized as temporary, seasonal, or other short-term, recurring violations would allow for fines to be assessed in a timelier manner for such violations. Adoption of such a 10-day appeal period would require a zoning ordinance amendment. The Planning Commission does recommend that a zoning ordinance amendment be initiated. [See Attachment 3]

8. Increase the maximum permitted area of On-Site Directional Signs [Also see Attachments 7 and 8.b.]

On-Site Directional Signs were added to the Sign Requirements Matrix with Zoning Ordinance Amendment ZOAM 2007-0002, which was approved on November 14, 2007. The maximum permitted area for an on-site Directional Sign is 4 square feet, and such sign may be located only where there is a change in direction. [p. A28] As the signs may be located only where there is a change in direction, they are typically used at an intersection and serve to direct the motoring public.

During the Planning Commission review of on-site versus off-site Directional Signs, a provision was added at the request of the SOVWG to allow for on-site Directional Signs to include names and/or logos of the business or development. Staff envisioned this would allow two to three major tenants to be listed on a Directional Sign. The SOVWG has now requested the size of on-site Directional Signs be increased to 25 square feet, thus equating Directional Signs to Directory Signs.

Staff maintains that a Directory Sign serves quite a different function than a Directional Sign. A Directory Sign typically lists the names and locations of *all* businesses in a particular building or development. A Directory Sign typically contains substantially more information than can be safely absorbed by a driver who is in the act of making a change in vehicle direction. Good examples of Directional Signs are the signs at Dulles Town Center directing motorists to Route 28 and Route 7. A 25-square foot Directional Sign is too large, and would

allow too many tenant names to be displayed on a sign whose primary function is simply to direct motorists in an efficient and safe manner.

9. Administration of the Sign Map requirement [Also see Attachments 7 and 8.b.]

Clarification has been requested as to the level of flexibility that will be allowed in administering sign locations identified on the required sign map which is approved in conjunction with a legislative application. This issue was raised at the Planning Commission and the following language was developed for one of the items required to be submitted as part of an application for a Sign Development Plan:

“A sign map, depicting the location of each of the various proposed sign types. Sign location shall substantially conform to the location depicted on the sign map.” [p. A15]

Substantial conformance leaves a reasonable margin for adjustment due to final design or engineering data but conforms to the general layout depicted by the plans. Staff believes this will provide adequate and reasonable flexibility to allow alteration of the location of a sign from that shown on the sign map, if necessary.

10. Auto service station signs [Also see Attachments 7 and 8.b.]

Clarification was requested on how signs used on gas pumps will be treated. Staff believes this can be addressed in two ways. First, staff proposes a text change in the matrix for this sign category. Staff suggests the Additional Requirements column be amended to also exclude state mandated labeling, as set forth in *Code of Virginia* § 59.1-167.1. Currently, the text reads:

“Total sign area excludes federally mandated gasoline price posting.” [p. A23] Staff proposes the text read: “Total permitted sign area excludes state mandated labeling of dispensing devices and federally mandated gasoline price posting.”

Second, the Total Aggregate Sign Area for auto service stations is proposed to be increased from 60 square feet to 100 square feet. [p. A23] With this increase and the exemption proposed above for gasoline dispensing devices, staff does not believe additional by-right signage is warranted for auto service station uses.

11. Staff Identified Issue

To clarify section (3) of the Sign Requirements Matrix [p. A19], staff suggests this heading be revised to “(3) Commercial Development Entrance/Project Identification Signs in the PD, CLI, GB, and MR-HI Districts.” This revision makes clear the intent of this section to apply to development entrance signs, as opposed to individual users.

FISCAL IMPACT:

The proposed text eliminates the Comprehensive Sign Package (CSP) application, which is currently processed as a Zoning Ordinance Modification (ZMOD). The land development application fee is \$13,315 for a residential ZMOD and \$12,610 for a non-residential ZMOD. The proposed text also eliminates CSPs for Unified Non-Residential Developments, which are currently processed as Minor Special Exception (SPMI) applications, with a fee of \$1,870. [Attachment 4]

The proposed text establishes a new legislative application, known as the “Sign Development Plan.” This application is to be processed in accordance with the procedures for a Special Exception. The proposed fee is \$5,120. [Attachment 4]

ALTERNATIVES:

1. Forward the subject amendments to the Board of Supervisors for action.
2. Continue review of the subject amendments at a subsequent meeting of the Transportation and Land Use Committee.

DRAFT MOTION(S):

1. I move that the Transportation and Land Use Committee forward ZOAM 2009-0003, Sign Regulations, ZOAM 2010-0002, Off-Site Directional Signs, and the associated amendments to the Schedule of Fees for Land Development Applications, as amended, to the February 15, 2011, Board of Supervisors Business Meeting with a recommendation of approval. Or,
2. I move that the Transportation and Land Use Committee continue review of ZOAM 2009-0003, Sign Regulations, ZOAM 2010-0002, Off-Site Directional Signs, and the associated amendments to the Schedule of Fees for Land Development Applications, at the February 16, 2011, Meeting of the Transportation and Land Use Committee.

Or,

3. I move (an alternate motion).

ATTACHMENTS:

Number	Description	Pages
1	Resolutions of Intent to Amend	A1—A4
2	Draft Amendments Text, Revision date 12-13-10	A5—A47
3	Planning Commission Recommendations to Board of Supervisors	A48

4	Revised Land Development Application Fee Schedule	A49—A53
5	Sign category examples	A54—A68
6	Summary of verbal comments from 12-13-10 Public Hearing	A69—A70
7	Letter from the Loudoun County EDC	A71—A73
8	Public Comment submitted for 12-13-10 Public Hearing	
	a. Karl Riedel	A74—A76
	b. Sign Ordinance Volunteer Working Group (SOVWG)	A77—A80
	c. NAIOP Northern Virginia	A81
	d. Gladys Lewis	A82