

**Albemarle County Planning Commission  
October 6, 2015**

The Albemarle County Planning Commission held a public hearing on Tuesday, October 6, 2015, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Bruce Dotson, Karen Firehock, Tim Keller, Mac Lafferty, Vice Chair; Thomas Loach, Cal Morris, Chair; and Richard Randolph. Absent was Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia.

Staff present was Claudette Grant, Senior Planner; Glenn Brooks, County Engineer, Sarah Baldwin, Senior Planner; Bill Fritz, Manager of Special Projects; Wayne Cilimberg, Deputy Director of Community Development; David Benish, Acting Director of Planning; Amelia McCulley, Director of Zoning/Zoning Administrator; Steward Wright, Senior Permits Planner; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

**Call to Order and Establish Quorum:**

Mr. Morris, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

**ZTA-2015-00012 29 Solutions Temporary Signs** – The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance amending Secs. 4.15.4A, Signs authorized by temporary sign permit, 4.15.12, Regulations applicable in the C-1, CO and HC zoning districts, 4.15.13, Regulations applicable in the PD-SC and PD-MC zoning districts, and 4.15.14, Regulations applicable in the HI, LI and PD-IP zoning districts, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 4.15.4A to authorize a class of temporary sign permits allowing temporary signs on lots located within the limits of a VDOT construction project until the VDOT construction project is substantially complete, and to authorize temporary signs of up to 48 square feet on lots having 4 or more businesses; and amend Secs. 4.15.12, 4.15.13, and 4.15.14 to refer to the increased sign area (48 square feet) allowed for certain temporary signs described herein. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Amelia McCulley)

Steward Wright, Senior Permits Planner, presented a PowerPoint presentation to summarize the staff report for ZTA-2015-00012 29 Solutions Temporary Signs. In his review of sign permits, which includes temporary sign permits, he implements the sign ordinance.

This is the second phase of the zoning text amendment that is intended to address signage for businesses that will be impacted by the construction of the Rio-29 grade separated interchange. The map in the second slide shows the affected area they will be discussing tonight. The project limits of construction extends from the 29<sup>th</sup> Place signal (south) to Woodbrook Drive (north) and from the Berkmar/ Rio intersection (west) to the mall entrance on Rio Road (east).

**Background**

**Phase 1: Temp Signage for Businesses Whose Signs Will Be Removed**

Phase 1 was targeted in scope and addressed temporary signs for those businesses whose permanent signs were slated for removal as a result of the utility work associated with the project.

Originally staff thought it was going to be a large number of signs that would have to be removed. However, after working with their contractor it is down to about four signs that need to be taken down. First, staff had to work with those businesses so they could have a sign up during the construction project.

### **Phase 2: Temp Signage for Businesses within the Limits of Construction**

Phase 2 involves an examination of additional temporary sign provisions for businesses within the construction project who were not otherwise covered with the Phase 1 sign amendments that were not going to have their sign taken down. This was based on the initial business concern that the grade separation could impact business visibility,

### **Phase 3: Changes to Permanent Signage for Businesses within the Limits of Construction**

Phase 3, the next step that they may or may not get to, was to consider whether we need to change the sign regulations for permanent signage.

### **Outreach Program for Business Signage**

Over a three month period this summer, various County staff engaged the business community in several different forums on multiple occasions. Some of the feedback staff received includes:

1. Support for additional temporary sign allowances to run the full length of the construction period;
2. Support for an incentive for businesses to aggregate their signage; and
3. Support for reduction or elimination of temporary sign permit fees during this period.

When staff was talking to these businesses everybody wanted a sign out on the road. Staff asked what it was going to look like if every single business in this project has a temporary sign out on the road. Therefore, the businesses were open to the idea of bundling onto temporary signs. There was also support for a reduction or elimination of permit fees during this period.

### **Proposed Ordinance –**

During the construction project;

1. Not more than one (1) sign per lot;
2. The lot has an existing primary use or structure for a pending use under construction;
3. The lot abuts a primary arterial or other public street within a project that involves the primary arterial\*; and
4. The lot is zoned commercial or industrial.

To reduce the proliferation of signs in the construction zone and to encourage businesses to work together for creative solutions, the proposed ordinance allows one temporary sign per lot. To offer the greatest flexibility for businesses, staff does not want to dictate but instead to allow them to decide whether they use the same sign or change out signs to meet their needs. That being said, if a sign was erected on a parcel that had a big number of tenants, such as Fashion Square, Albemarle Square and Rio Hill, they could change out tenants from time to time without having to come back for a new permit and a new process.

### **Proposed Ordinance - Additional Provisions includes:**

- Signs that serve four (4) or more businesses would be allowed a temporary sign up to 48 sq. ft. and presently it is 32 sq. ft.;

- Businesses that have three (3) or less businesses would still allow a temporary sign of 32 sq. ft.

The next section of the presentation will address Neil Williamson's comments received by email on Friday in which he raised this question with examples of several businesses. In his examples many do have public road frontage and would qualify for the temporary signage provision; however, several would not. Staff wanted to provide a signage solution for those properties without going too far beyond the Tier 2 priority area and without unintended consequences.

The specific example that Mr. Williamson brought up, the Gardens Shopping Center, is shown in the next slide. Quite often when staff looks at a shopping center, Fashion Square is a great example, they always look at it as one piece of land, one lot, and one parcel. Fashion Square is actually five or more tax map parcels. The Gardens Boulevard is the same and staff views it as the Gardens Shopping Center; however, the Gardens Shopping Center consists of multiple parcels. Woodbrook Shopping Center is another example that looks like one shopping center, but actually is five parcels.

Crutchfield is located on 29 and has frontage. There is one business attached to that same building. However, if you look at the next lot to the east of Crutchfield there is a property line going through that building and the businesses on that lot do not have frontage. Mr. Williamson's concern is would those businesses that have their artery coming in from 29 be able to take advantage of these sign regulations. Yesterday staff and today tried to figure out what could be done and what changes would need to be made. The proposed changes are, "The establishment identified on the sign may be those located on the lot on which the sign is located and any lot that abuts the lot on which the sign is located provided that the abutting lot is also within the project limits of the construction area and does not abut a primary arterial or public street." Gardens Boulevard is a private street, which is where the dilemma came from because the draft ordinance suddenly excluded those businesses in this affected area. This draft language allows those parcels (listed as "abutting lot") to be included in signs on the road frontage and for the business to count towards the number of establishments – with 4 or more qualifying for 50% larger signs.

In summary, staff recommends that each parcel within the project limits qualify for one temporary sign with no permit fee, for the duration of construction as follows:

- Parcels with 3 businesses or less would be allowed One (1) temporary sign (32 sq. ft.); and
- One (1) temporary sign (48 sq. ft.) with no permit fee if 4 or more businesses being able to participate using that sign.

While the zoning ordinance language isn't specific to this Rio/29 Grade Separated Interchange project, staff hopes to use it as a pilot for signage needs during major construction projects in the future for other areas. Staff can always tweak the provisions based on that experience.

With regards to phase 3 (consideration of changes to the permanent sign regulations), staff has not received input that suggests this is necessary. As you know from what Mr. Higgins brought to the Commission not too long ago, we are in the midst of a more comprehensive sign ordinance amendment to address the Reed Supreme Court case which requires content neutrality for much of our regulation. Therefore, staff was still working through that before they can even get to phase 3.

Following the public hearing, staff recommends approval of the proposed zoning ordinance amendment addressing Phase 2 Route 29 Solutions Business Signage Impacts (Attachment A in staff report).

Mr. Morris invited questions for staff.

Mr. Randolph pointed out no mention has been made about lighting and asked how does lighting apply to the temporary signage and is that permitted. Because it is essential during the construction phase that lighting be permitted on these signs he assumed it was permitted.

Mr. Wright replied the illumination of a temporary sign is not prohibited; but, it is just not carried out in practice very often. Again, these signs would be temporary in nature so the applicant could do some ground and up lighting that would have to meet the lighting ordinance regulations, which are fairly stringent. He could not see them doing an internally illuminated sign although somebody may get creative. Definitely, it is a possibility. However, there are strict lighting regulations they would have to meet.

Mr. Randolph asked if temporary signs in the Entrance Corridor would not be subject to ARB review, and Mr. Wright replied that is correct.

Mr. Randolph noted on page 2 under C within limits of VDOT construction project during construction it is proposed in the language that the signage basically would be allowed to exist until the date of project construction completion as evidenced by the date that VDOT issues a form C5 or makes an equivalent written determination. He would like to see it changed to 30 days beyond that to provide a transitional time period. He thinks there is going to be a significant learning process for people initially as to where to turn and how to get into a business. It would prudent to just say that there should be 30 additional days and then the signage terminates at that point.

Mr. Loach suggested adding “or when there are enough signs from either VDOT or the businesses” to Mr. Randolph’s suggestion.

Ms. McCulley explained what VDOT described to us and the reason staff was using that form C5 is that the construction is physically complete, the lanes are open, the lights are on, the temporary construction signage is down, and it is many months beyond the end of their project that has been complete for a while. So it is well beyond the construction.

Mr. Randolph asked if there will be that transitional time period.

Ms. McCulley replied that was staff’s understanding; but, she could check with VDOT.

Mr. Randolph suggested that should be communicated to the business community to provide some reassurance to them since there is a lot of nervousness.

Mr. Loach agreed that they need a transition period when signs are put up and then back to normal with the traffic flow. He thought the companies will have their signs back up long before the temporary signs have to come down.

Mr. Dotson said he could image that as construction proceeds visibility could change and asked would it possible for somebody to move the location of a temporary sign easily without a lot of red tape.

Mr. Wright replied absolutely since moving the location of a temporary sign would be done administratively and handled very quickly.

Mr. Dotson said the example staff showed on the screen of the abutting lots used the Gardens Center. Since the building where the trampoline center jump is located would not be abutting he asked if that business would not be included in this language.

Mr. Wright replied that business would qualify because there is a pipe stem to the south that goes out to Route 29.

Mr. Dotson suggested rather than abutting properties maybe in general we should think about having the internal circulation sort of define the shed of who should qualify for the sign. It was just another thought; however, in this particular case he saw what was pointed out.

Mr. Wright explained the Gardens is an unusual situation in this area of the project since it also has access from Albemarle Square.

Mr. Dotson commented that 42 square feet for 3 or fewer signs seems fine. However, he would not be against 64 square feet if 8 businesses were put on the sign or maybe even be larger. He asked does the 48 square feet just seem like a reasonable number or is that consistent with something else that we have in the ordinance.

Mr. Wright replied that 48 square feet seemed like a reasonable number since it actually is not consistent with anything in the ordinance as far as sign area goes. Typically, these commercial sites are allowed up to a 32 square foot sign. The larger shopping centers that have the 50,000 square feet or larger are allowed an additional 8 square foot bonus tenant panel sign. So the largest permanent sign, not temporary sign, you can presently have is 64 square feet, but that requires at least a 200,000 square foot leasable retail area. Some of those 64 square foot signs have been erected in the county, which includes the 29<sup>th</sup> Place sign and the Kohl's sign at Hollymead Town Center.

Ms. McCulley pointed out with TODD Sign, the blue and white program tourist oriented directional signage program, and VDOT is going to give free signage to any of the 34 or so businesses that meet their criteria in terms of types of business. For example, food service establishments are a qualifying type of business. There are lots and lots of other criteria, such as number of hours the business has to be open for operation and things like that. However, in any event that is the signage that travelers are used to looking at to find their way. Therefore, we really want to defer to signage in the right-of-way that is something that people know and are familiar with because it is going to be a very crowded field of vision for the construction zone.

Mr. Dotson said he was comfortable because it is temporary with 64 square feet. But, that is kind of arbitrary, too, because it is two 4' X 8' sheets.

Mr. Loach asked to follow up on Mr. Randolph's comment about the lighting. He suggested looking into lighting more because it is going to be dark pretty soon at 5:30 p.m. and the holidays are coming. With the commotion and confusion around the sites they need to make sure that the signs are lit, but don't confuse anyone driving through there and make it more dangerous.

Mr. Wright pointed out he had spent a lot of time driving up and down Route 29 looking at these signs and just trying to figure out what could come about from this proposed changes with the

existing signs that are not being removed. The majority of the businesses have their freestanding signage out there and the majority of it is illuminated. This is just additional signage. If they wanted to do the lighting, then it is a possibility. But, the four businesses that are going to have their signs removed and they need to have a sign put up temporarily, it is a bigger deal for them. Staff will work closely with those businesses as far as illumination goes because they are losing their sign. However, for these other businesses it really is additional signage and an opportunity for a lot of these tenants who are a little bit further back off the road. Great examples include Albemarle Square and Fashion Square because you see that sign, but you don't know who the tenants are. It is a wonderful opportunity for those businesses to get some legal signage out at the road until the land lord in the future changes the sign package to get more tenant branding out at the road. Staff has been working with both of those shopping centers mentioned who want future permanent signage to where they can take advantage of the regulations that are on the books right now for permanent signage.

Mr. Lafferty said he assumed they will not be able to use electronic signs or the changeable message signs.

Mr. Wright replied those are still required to be by special use permit, which probably would not be financially feasible for them to go through that process and that money for a temporary sign.

Mr. Lafferty asked about the trailers with the plastic sign on it.

Mr. Wright replied as long as the signs are not changeable, they are not prohibited.

Ms. McCulley noted unless it is an advertising vehicle. Someone can have a vehicle that has advertising on it that is used as part of the business and parked in a parking space associated with the business. However, if it is modified just as a sign, that is not allowed

Mr. Lafferty said he would hate to see 500 of those lining 29.

Mr. Wright pointed out that many rental companies rent out towable temporary signs that right now are a legal form of a temporary sign.

Mr. Keller asked are they still set for the sign meeting the week after next.

Ms. McCulley replied that yes, the Reed Work Session is scheduled for October 20<sup>th</sup>.

Mr. Keller said this is wonderful and well done. Even in the time of GPS there may be a reason for what we are doing here. However, in terms of the next phase that relates to this he remembers reading lots of interesting psychology of sign studies that came out of Transportation Research Board (TRB) that were moving towards how little signs serve the traveling community. He believes it is a very small percentage. But, in light of this new media world that we live in he would appreciate it if Ron Higgins or another staff member would just do a quick study of the journals and see if there are any current articles out of the Transportation Research Board (TRB) that speak to this when we are thinking about signs and the relevance of signs in the post boomer era even. They need signage in a place so that when you drive up you know for sure that you are going into the correct business area. However, he has a feeling that signage is really going away and would like to know whether the research at the moment represents that or whether this is just a crazy idea.

Mr. Kamptner said it is not a crazy idea because in the constitutional analysis the localities have to leave open reasonable alternative channels of communication when you are restricting signs. With modern technology that alternative channel of communication is in a digital format that people are carrying around with them. It is not the ability to send out letters or to fly flags or to post an alternative type of advertising vehicles or something like that. So we are thinking about it, but we are not there.

Mr. Keller said the benefit of this is that we have all been places where the GPS can't properly route us in when there has been a road change or road closure. Therefore, he did not have any difficulty with this; but, thinks it is the bigger question of signs. He thinks this is a case of looking to the future staff and the Planning Commission might be able to provide some suggestions to the Board of Supervisors.

Mr. Randolph agreed that Mr. Keller has got a good point.

Mr. Lafferty pointed out we are doing this one for the merchants.

Mr. Randolph agreed that staff's recommended change built in here as per Neil Williamson's suggestion is a good one. He asked Mr. Dotson if he was comfortable with the way it is worded.

Mr. Dotson replied yes.

There being no further questions, Mr. Morris opened the public hearing and invited public comment. There being no public comment, the public hearing was closed to bring the matter back to the Commission for discussion and action.

Mr. Randolph agreed to make a motion to go ahead and move ZTA-2015-12 29 Solutions temporary signs on to the Board of Supervisors.

Mr. Keller seconded the motion.

**Motion:** Mr. Randolph moved and Mr. Keller seconded to recommend adoption of ZTA-2015-12 29 Solutions temporary signs for the proposed Zoning Ordinance Amendment (Attachment A in the staff report), as amended in the additional page distributed by staff.

Mr. Kamptner asked if that was with the replaced page 2 as distributed this evening.

Mr. Randolph agreed the motion included the changes they just talked about in the additional page distributed.

Mr. Morris invited further discussion. There being none, he asked for a roll call.

The motion passed by a vote of 7:0.

Mr. Morris noted that ZTA-2015-12 29 Solutions temporary signs would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined, as follows.

The Planning Commission recommends adoption of Attachment A of staff report with the following change to Section 4.15.4A c. (2) (c):

**(c) . . . and (5) the sign area of the sign shall not exceed either thirty-two (32) square feet if the sign identifies three (3) or fewer establishments, or forty-eight (48) square feet if the sign identifies four (4) or more establishments, where the establishments identified on the sign may be those located on the lot on which the sign is located and any lot that abuts the lot on which the sign is located, provided that the abutting lot is also within the project limits of the construction area and does not abut a primary arterial or other public street. (See Staff Report Attachment A for full text)**

Ms. McCulley pointed out the public hearing was set for the November 4<sup>th</sup> day meeting since the Board asked staff to expedite it.

The meeting moved to the next agenda item.

(Recorded and transcribed by Sharon Taylor, Clerk to Planning Commission)

- (a) *Generally.* Except as provided in subsection (c)(2)(b), for a period not to exceed fifteen (15) consecutive days after the erection of the sign, provided that a temporary sign permit issued while a permanent sign is being made may be valid for longer than fifteen (15) days until the permanent sign is erected.
- (b) *Within limits of VDOT construction project during construction; where existing permanent sign removed.* For the period between the date the sign is erected, which shall be on or after the date the Virginia Department of Transportation ("VDOT") issues a notice to proceed for a VDOT construction project, until the date of project construction completion as evidenced by the date that VDOT issues a form C-5 or makes an equivalent written determination, or until a permanent sign to replace the removed permanent sign is installed at the establishment or on the lot, whichever occurs first, provided that: (1) the temporary sign is erected to replace a permanent sign on a lot abutting a primary arterial or other public street within the project limits of the construction project that includes the primary arterial; and (2) the permanent sign was required by VDOT to be removed in conjunction with the construction project.
- (c) *Within limits of VDOT construction project during construction.* For the period between the date the sign is erected, which shall be on or after the date the Virginia Department of Transportation ("VDOT") issues a notice to proceed for a VDOT construction project, until the date of project construction completion as evidenced by the date that VDOT issues a form C-5 or makes an equivalent written determination, provided that: (1) not more than one (1) sign authorized by this subsection per lot may be erected; (2) the lot has an existing primary use or a structure for a pending primary use is under construction; (3) the lot abuts a primary arterial or other public street within the project limits of the construction project that includes the primary arterial; (4) the lot is within a zoning district subject to sections 4.15.12, 4.15.13, or 4.15.14; and (5) the sign area of the sign shall not exceed either thirty-two (32) square feet if the sign identifies three (3) or fewer establishments, or forty-eight (48) square feet if the sign identifies four (4) or more establishments, where the establishments identified on the sign may be those located on the lot on which the sign is located and any lot that abuts the lot on which the sign is located, provided that the abutting lot is also within the project limits of the construction area and does not abut a primary arterial or other public street.
3. *Aggregate duration for temporary signs in calendar year.* Temporary signs shall not be erected at an establishment for more than sixty (60) days, in the aggregate, in a calendar year, provided that this limit shall not apply to a temporary sign erected to replace a permanent sign as provided in authorized by subsections (c)(2)(b) and (c)(2)(c).
4. *Portable signs; stabilization.* A temporary sign that is a portable sign shall be stabilized so as not to pose a danger to public safety. Prior to the sign being erected, the zoning administrator shall approve the method of stabilization.
- d. *Exemptions.* A temporary sign permit is not required for a sign exempt from the sign permit requirement under section 4.15.6 or nonconforming signs subject to section 4.15.24.

(Ord. 12-18(2), 3-14-12)