

**PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
MEETING SUMMARY
NOVEMBER 8, 2021**

The meeting was called to order at 7:00 p.m.

I. ROLL CALL

PRESENT

Commissioner Caryn Carlie
Commissioner Allison Harris
Commissioner John Marino
Commissioner Jane Staniforth
Commissioner Guy Tilman
Commissioner Steven Wuennenberg
Chair Merrell Hansen

Mayor Bob Nation
Councilmember Mary Monachella, Council Liaison
Mr. Nathan Bruns, representing City Attorney Christopher Graville
Mr. Mike Knight, Assistant City Planner
Ms. Shilpi Bharti, Planner
Ms. Mary Ann Madden, Recording Secretary

ABSENT

Commissioner Debbie Midgley
Commissioner Nathan Roach

Chair Hansen acknowledged the attendance of Mayor Bob Nation; Councilmember Mary Monachella, Council Liaison; Councilmember Mary Ann Mastorakos, Ward II; Councilmember Aaron Wahl, Ward II; and Councilmember Michael Moore, Ward III.

II. PLEDGE OF ALLEGIANCE

III. SILENT PRAYER

IV. PUBLIC HEARINGS - Commissioner Wuennenberg read the "Opening Comments" for the Public Hearing.

- A. P.Z. 16-2021 City of Chesterfield (Unified Development Code – Article 4 and Article 10)**: An ordinance amending Article 4 and Article 10 of the Unified Development Code pertaining to signs.

STAFF PRESENTATION:

Mr. Mike Knight, Assistant City Planner, stated that the purpose of this petition is to discuss potentially revising the regulations of the Unified Development Code pertaining to signs. He noted that it is important to continually adapt and update the City's Sign Code regulations to conform to recent legal decisions and address changes in technology.

History

There have been three landmark court proceedings with findings that involve the ability of a municipality to regulate signs.

- City of Ladue v. Gilleo (1994)
 - The city's desire to reduce clutter in residential areas was found not to be compelling enough to justify a ban on signage. The outcome confirms the right to free speech on signage on individual residential lots.
- Reed v. Town of Gilbert (2015)
 - This case also clarified the level of constitutional scrutiny that should be applied to content-based restrictions on speech, and established two tests to determine whether a sign regulation is content-based.
- Willson v. City of Bel-Nor (2019)
 - City ordinance was declared unconstitutional as it regulates the number of non-commercial signs.

Content-Neutral vs Content-Based

Content-based regulations of speech target the **content** of a message. A sign restriction is considered content-based if:

1. An individual must read the sign to understand how the sign restriction applies (e.g., to distinguish a political sign from a public information sign); or
2. The underlying purpose of the sign restriction is to control certain subject matters.

Content-neutral regulations target the **time**, **place**, and **manner** that speech occurs.

The purpose of the Public Hearing is to have a discussion on the City's current sign code in relation to content neutrality, and to confirm the approach Staff will take to begin any updates to the UDC with content-neutral regulations. Mr. Knight then outlined the three perceived issues:

1. Differing regulations for non-commercial speech;
2. Regulations of specific wording; and
3. Restrictions based on the message content.

Issues/Recommendations

Issue - Regulations of Specific Wording

Throughout the sign code, there are multiple examples of specific wording or messaging required to be utilized for specific signs.

- Example: A service station with a canopy may have no more than one sign which may include the name and logo of the business, and one sign which may include the words **self-service** and **full service** attached on each of any two sides of the vertical face of the canopy. The outline area of each sign shall not exceed 10 SF.

In this case, the City is regulating the content of the sign by dictating the specific wording (**self-service** and **full service**) or graphics to be utilized.

Proposed Resolution

Still allow an additional sign on a canopy or similar requirement for a different type of sign, but not dictate the graphic messaging or specific wording to be utilized.

- Example: A service station with a canopy may have no more than one sign on any two sides of the vertical face of the canopy. The outline area of each sign shall not exceed 10 SF.

Issue – Restrictions Based on the Message Content

The current sign code allows exceptions or restrictions based on the content of the message.

- Example: The City's sign code has an **exemption** allowing a sign to be illuminated by an **intermittent light source to display stock market quotes**.

Allowing a separate lighting criterion for the stock market quotes vs any another other message is regulating based on the content of the signage being displayed.

Proposed Resolution

Remove any exceptions or restrictions based on message content.

Issue - Differing Regulations for Non-Commercial Speech

The city code states that:

- A political sign shall not exceed 8 SF per sign area with a total of 16 SF in outline area and shall be removed 7 days after the election; and
- A temporary public information sign shall not exceed 32 SF in outline area not to exceed the duration of a year.

Below are definitions of both signs found in Article 10 of the UDC:

- **Sign, Political:** Any sign which is designed to influence the action of the voters for the passage or defeat of a measure appearing on the ballot at any national, state, or local election or which is designed to influence the voters for the election or defeat of a candidate for nomination or election at any national, state or local level.
- **Sign, Public Information:** A sign used for public events, promotion of civic causes or activities for charitable or not-for-profit purposes.

The potential issue with the current code, as written, is that both signs are examples of **temporary non-commercial signs**, yet are regulated by different metrics (a political sign versus a public information sign). Some may perceive this regulation as one that is not content-neutral.

Proposed Resolution

Create new definitions in Article 10 for the following:

Sign, Temporary - A sign that is neither permanently anchored to the ground, nor permanently affixed to a structure, nor mounted on a chassis, and/or is intended for a limited period of display.

Message, Commercial - Any sign, wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service, or other commercial activity.

Message, Non-Commercial - Any sign, wording or logo that does not represent a commercial message or commercial speech. Such signs may express messages that include, but are not limited to, free speech opinions, ideological messages, religious messages, political messages, etc. (See also *message, commercial*)

Temporary Signs in Residential Zoning Districts

Temporary Sign **without a commercial message:**

- Any one sign may not exceed 8 SF.
- **Cannot limit the number of non-commercial messages** (*per Willson v. City of Bel-Nor*)

Temporary Sign **with a commercial message:**

- Any one sign may not exceed 8 SF
- Up to two temporary signs with a commercial message are permitted on each lot in a residential zoning district.

Temporary Signs in Non-Residential Zoning Districts

Temporary signs **with or without a commercial message:**

- The regulations will conform to the banner, window sign, sandwich board, and attention getting devices.

Temporary Signs - Development-Related

Mr. Knight also explained that the City code currently permits three different temporary signs for new developments under construction:

- Construction Sign – Includes information about the development’s Architectural and Engineering firms.
- Future Use of Site Sign – Includes information about the site’s development.
- Subdivision Promotion Sign – Includes insignia and price information.

Proposed Update

Temporary Signs: Development Related

- Temporary Signs with a **commercial or non-commercial message** may be erected **in any zoning district** immediately following the approval of a use permitted by the regulations of the particular zoning district but not more than **six (6) months prior to construction** or development of the site. Signs shall be erected only on the lot or development in question and shall be removed within **fourteen (14) days after the completion** of construction of a building on the site in the case of a previously undeveloped site, or the occupancy of an existing building, or the beginning of the intended use of the site where no building is to be constructed.
- Each site may have no more than **one (1) such sign facing each roadway** on which the site has frontage. No such sign shall **exceed thirty-two (32) square**

feet in outline area per facing, nor exceed ten (10) feet in height above the average existing finished grade elevation of the sign or elevation of the adjacent street, whichever is higher.

Staff Recommendations:

- Removing regulations based off of specific wording.
- Removing the restrictions or exemptions based on messaging content.
- Having new definitions for commercial and non-commercial signs.
- Removing specific sign types for various non-commercial entities (political, religious, non-profit).
- Having different temporary sign regulations based on residential and non-residential zoning districts.

Discussion

Homeowner Associations

It was noted that HOA's can regulate signage within their subdivisions beyond City code. Mr. Nathan Bruns, representing the City Attorney, explained that HOA covenants could be more restrictive than City ordinance. In such an instance, the City would not get involved as it would be a matter between the homeowner and the HOA.

Non-Commercial Messages

Commissioner Wuennenberg referred to Reed v. Town of Gilbert which states, in part, that a sign restriction is considered **content-based** if an individual must read the sign to understand how the sign restriction applies. He then questioned how that would apply to the proposed definition of a *Non-Commercial Message* (shown below).

Any sign, wording or logo that does not represent a commercial message or commercial speech. Such signs may express messages that include, but are not limited to, free speech opinions, ideological messages, religious messages, political messages, etc. (See also *message, commercial*)

Mr. Bruns stated that there is a distinction between commercial speech and non-commercial speech. Regulations pertaining to commercial speech can be more restrictive than non-commercial speech. Typically the courts have placed a higher value on non-commercial speech because it includes political, ideological, and religious messages, which are viewed as being fundamentally more important. Within the category of non-commercial speech, political signs cannot be treated differently than religious or ideological signs.

Size of Signage

Chair Hansen questioned how the **size** of signage is regulated. Mr. Knight replied that signage size could be regulated by different zoning districts, duration of time, or type of sign. However, a commercial message sign cannot be larger than a non-commercial message sign within the same zoning district.

Duration

Commissioner Marino inquired as to how non-commercial message signs could be regulated with respect to duration – such as holiday decorations. Mr. Knight indicated that he would research the issue noting that consideration will have to be given to the different types of non-commercial signs – such as political signs, non-for-profit messages, and signs such as *ProLife, Black Lives Matter*, etc.

Posting Signage

It was noted that property owners need to grant permission for any signage posted on their property.

Definition of a Sign

Commissioner Tilman recommended that a definition be provided for the term *sign*. He felt that a strong definition could eliminate items that some may now consider signage – such as holiday decorations and images projected on the side of a building.

Offensive Language

Commissioner Carlie questioned whether signage can be regulated with respect to obscenities and free speech. Mr. Knight stated that he would look into the matter.

Communication regarding New Regulations

Commissioner Harris asked how the public and businesses would be informed about any new signage regulations. Mr. Knight stated that there will not be many changes to the regulations pertaining to commercial signs. Any existing signs will be allowed until a change is requested at which time, the new regulations would be put into effect. Any changes to the non-commercial, temporary messaging will be incorporated into the code.

Commissioner Marino suggested that HOA's be informed of any new regulations concerning signage within residential districts.

Summary

It was agreed that Staff would prepare a red-line version of recommendations for the Commission's review.

V. APPROVAL OF MEETING SUMMARY

Commissioner Tilman made a motion to approve the **Meeting Summary of the October 25, 2021 Planning Commission Meeting**. The motion was seconded by Commissioner Harris and **passed by a voice vote of 7 to 0**.

VI. PUBLIC COMMENT

The following individuals, representing the Petitioner for **Dierbergs The Market Place, Outlot Building 1772 Clarkson Road (Billy G's)**, were available for questions:

1. Mr. Drew Bextermueller, Director of Real Estate, Dierbergs, 16690 Swingley Ridge Road, Chesterfield, MO
2. Mr. William Gianino, Billy G's
3. Mr. Paul Brendon, Architect

VII. SITE PLANS, BUILDING ELEVATIONS AND PLATS

- A. Dierbergs The Market Place, Outlot Building 1772 Clarkson Road (Billy G's):** Amended Site Development Plan, Landscape Plan, and Amended Architectural Elevations for a restaurant located on an 11.35-acre tract of land located east of Clarkson Road and north of Baxter Road, zoned "C8"- Planned Commercial District.

Commissioner Wuennenberg, representing the Site Plan Committee, made a motion recommending approval of the Amended Site Development Plan, Landscape Plan, and Amended Architectural Elevations for **Dierbergs The Market Place, Outlot Building 1772 Clarkson Road (Billy G's)**. The motion was seconded by Commissioner Marino.

Discussion

Chair Hansen stated that the Site Plan Committee discussed parking for the proposed restaurant and was informed that the site has ample parking available.

Commissioner Carlie asked for confirmation that the Fire Department has approved the amended plan with respect to there being a parking space in front of a fire hydrant. The Applicant confirmed that the plan has been approved by the Fire Department.

The motion to approve **passed** by a voice vote of 7 to 0.

VIII. UNFINISHED BUSINESS - None

IX. NEW BUSINESS - None

X. COMMITTEE REPORTS - None

XI. ADJOURNMENT

The meeting adjourned at 7:38 p.m.

Jane Staniforth, Secretary