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Memorandum

Date: April 4, 2017
To: Town Council
From: Community Development Committee
Amanda L. Stearns, Community Development Director
Cc: Amy Tchao, Nathan Poore, Justin Brown, Ethan Croce
Re: Permanent Signs – Zoning and Site Plan Review Ordinance,
Subdivision Ordinance and Design Guidelines Amendments

Based on direction from the Council in the 2016 Work Plan, we have developed a series of amendments to address the instructions from the US Supreme Court case Reed v. Gilbert (Reed) to remove any content based regulation. This work plan item was required to avoid legal challenges to our current sign regulations.

This review is required for both permanent and temporary signs. The committee prioritized permanent signs and expects to complete the work on temporary signs in 2017/18. In an effort to attempt to move this amendment through during this Council year, we decided to introduce the amendment at the 90% completion level, confident that no substantive changes would be required.

In addition, the attached amendments will still require a thorough staff review. This will occur prior to the first hearing and be presented at that time. The CDC will meet prior to the MRA and Council hearings to approve modifications.

OVERVIEW

The town regulates permanent signs in several different ways, mostly through the Zoning and Site Plan Review Ordinance with a few minor exceptions such as street signs and traffic control signs. The zoning ordinance has sign provisions peppered throughout the ordinance and uses several methods of regulation. Some districts are regulated through master sign plans or master plans, some by design guidelines, some by a combination of both, and some by Planning Board approval. One reoccurring theme is the use of sign types defined by the message or speaker, the main aspect that was rejected as constitutional by Reed.

FRAMEWORK FOR REVIEW

The committee defined the scope and direction of the work by the statements below.

1. Primary goal is to restructure existing language to be compliant with the new limitations set by Reed on sign regulation.

2. Maintain the existing ordinance provisions wherever possible.
3. Move from a content based to a form based regulation (content neutral)
4. Where changes are required to existing provisions, use the “less is more” approach already prevalent in both the zoning ordinance and the design guidelines.
5. Maintain rights for all non-conforming (grandfathered) signs to be maintained for as long as the owner chooses. Once voluntarily removed, a conforming sign will be required.

METHODOLOGY - The committee and staff used the following process.

1. Meet with the Town Attorney to be sure to have a clear understanding of the legal perspective from which the review was to be conducted.
2. Review the current provisions and identify all that are content-based.
3. Reorganize all signs into types that are content-neutral and build tables that will identify provisions by district.
4. Combine sign provisions in same sections where appropriate. Left VC Districts and Master Plan Districts provisions in their current locations. All sign provisions will be consolidated with the administrative reorganization of the ordinances.
5. Resolve conflicts where existing ordinance calls for differing allowances based on content.
6. Suggest any clean up amendments to simplify and clarify provisions.

OBSERVATIONS and CHALLENGES

1. Current ordinance and design guidelines are repetitive, conflicting in areas and poorly written.
2. Many exceptions and special criteria written for certain content based signs. This made it especially difficult to put the proverbial square peg in the round hole.
3. Changeable copy/reader boards are currently allowed only for certain uses and only manually. Since we can't continue that practice, the final decision was to not allow any for the time being and revisit this perhaps next year, including asking the question if electronic copy should be allowed.
4. Illumination was reviewed, especially internal lit signs and the time restrictions placed on them. Internally lit signs are only allowed in MUC and VC districts and required to be turned off when the business is closed. The committee recommends that since they are reviewed by the Planning Board and subject to design guidelines.
5. Creating uniformity for sign size within districts was challenging given the need to allow at least equal opportunity for personal speech and commercial speech, especially in the residential districts.

6. With the ability to limit content of a sign, the committee decided to limit the size of signs as well as the size of characters on the sign and remove the limits on numbers of characters or syllables in the ordinance and the design guidelines.