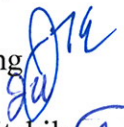




MEMORANDUM

TO: Alice Kelly

FROM: John Epting 
Jeff Utz 
David Avitabile 

DATE: December 14, 2012

SUBJECT: Comments regarding Proposed Sign Regulations

Goulston & Storrs, P.C. offers the following comments regarding the proposed sign regulations that were published pursuant to a Notice of Public Rulemaking. We appreciate your careful consideration of the following comments.

General Comments

Construction Code Official. The proposed signage regulations discuss the authority of the Director of DCRA and the Director of DDOT, but do not mention the ability of the Construction Code Official to approve certain signage applications under the modification process set forth in Section 104.10. The proposed signage regulations should clarify in Chapter 2 that the Construction Code Official retains the authority to approve signage under Section 104.10.

Medical, Educational, Cultural, and other Non-Profit Institutions

Campus Signage. As currently drafted, the proposed regulations apply to any temporary or permanent signage displayed on a building, even if sign faces the interior of the lot and is not otherwise visible from a public right of way or other private property.

- We recommend that signage that is not visible from a public right of way or other private property, such as signage located within the interior of a campus, should be exempt from the proposed regulations. In such cases, no public interest is served in regulating such signage.
- In the alternative, we recommend that the regulation of signage that is not visible from a public right of way or other private property, such as signage located within the interior of a campus, be limited to a technical review under Chapter 11 of the proposed sign regulations to confirm proper materials and installation. Such signage should be exempt

from the limitations on size, content, type, and form of signage (e.g. no prohibitions on variable messaging signs even if the property is located in a residential zone).

Digital Signs. The prohibition on variable message, video display, and other digital signs should be relaxed for medical, educational, cultural, and other non-profit institutional uses. Such signage is potentially appropriate for information-based displays, e.g. boards with interactive transit information or campus wayfinding, as well as exhibits that are related to and further the institutional missions of these organizations.

Temporary Signage. As drafted, the proposed regulations exempt certain temporary banners and similar signage in both public and private space. See § 605, § 706.

- The District has many medical, educational, cultural, and similar non-profit institutions that often have events, exhibits, and displays related to their mission. These institutions are vital to the District's success and should be permitted to have temporary signage that appropriately promotes their mission.
- We recommend that Sections 605 and 706 be expanded to permit temporary signage for medical, educational, cultural and other non-profit institutions. Such signage, which is typically used for event announcements such as alumni reunion weekends, museum exhibits, and performing arts or sports events, is time-sensitive and should not be required to adhere to the cumbersome permitting process. Requiring permits for such signs also imposes a significant burden on universities and their populations for signs that are otherwise needed in the ordinary course of business.
- In the alternative, we recommend that the proposed regulations be revised to permit temporary signage on private property for medical, educational, cultural and other non-profit institutions through an expedited postcard or over-the-counter permit process that is limited to a technical review under Chapter 11 of the proposed sign regulations and results in a permit within 24-48 hours.

Building Identification Signage. The proposed regulations govern all forms of "outdoor display signs and other forms of exterior advertising" on private property. Non-commercial signage, such as building identification signage, is not subject to permit requirements.

- We agree with this approach, which is consistent with past DCRA determinations that signage identifying the owner or name of a building (e.g. signage identifying the donor for a non-profit institution) is not subject to the signage regulations.
- In the alternative, if such signage is intended to be regulated, we believe that such signage should be permitted just as for any commercial or industrial use (that is, permitted for each building based on the height and street frontage of the building).

Chapter 3 – Commission of Fine Arts

Sections 300.2 and 301.2: CFA has limited jurisdiction over buildings, and does not have any jurisdiction over land or public space. Delete “or land” from Section 300.2 and delete Section 301.2 in its entirety.

Section 304.1: The Georgetown University main campus is controlled by the Old Georgetown Act. Consider relaxing this provision to permit electronic signage (including television or video monitors as well as other electronic signs) within the campus. Such signage would not impact public rights of way and is appropriate given the well-established existing university use.

Chapter 6 – Public Space

Section 604.1. It is well-established under the existing and proposed Construction Codes that building projections (e.g. canopies, bay windows, and awnings) are within the sole jurisdiction of DCRA, because they are affixed to the building on private property. Accordingly, consistent with established precedent, signs that are affixed to a building projection should also be reviewed and approved by DCRA under the provisions of Chapter 7 of the proposed sign regulations. Therefore, this section should be amended to clarify that “Except for projecting signs governed by Section 708, the permitting official shall refer all applications for permits for permanent signs on public space to the Public Space Committee” (new language underlined).

Section 608.6. Consistent with the intent of the language above regarding institutional uses on larger campuses, this section should be either eliminated or revised to limit signs for medical, cultural, educational and other non-profit institutions by building frontage rather than by institution. Large multi-acre or multi-square institutional uses clearly have signage needs that may exceed 40 square feet, even in public space. Per Section 608.2, all such signs will need to be reviewed and approved by the Public Space Committee, which will allow for such signage requests to be carefully evaluated.

Chapter 7 – Signs on Private Property

Restrictions based on Zone Category. The proposed signage regulations carry forward outdated references to signage based on zone districts that fails to capture the vibrant mix of uses and new zone categories in the current and proposed zoning regulations. Such signs as projecting signs or variable message signs should be permitted for high-density residential (e.g. apartment houses), institutional, commercial and industrial uses, regardless of the underlying zone category. For example:

- Retail uses are now permitted with a special exception in certain SP zones. Once the BZA determines a retail use is permitted, projecting or variable message signage should also be deemed appropriate for retail uses in those zone categories.
- Mixed-use zones, such as the CR Zone and potential new zone districts, should be permitted to have projecting and variable message signs for the appropriate commercial uses. Under the current and proposed regulations as currently drafted, the ability to install such signage is unclear.
- Apartment building signage should be uniform regardless of whether the apartment building is in a high-density residential or commercial zone district.
- Institutional signage should be uniformly permitted pursuant to the guidelines proposed above, regardless of whether the institutional use is located in a residential or commercial zone district. (Furthermore, the proposed zoning rewrite contemplates a new “institutional” zone district not covered under these sign regulations.) Projecting and variable message signs should be permitted for institutional uses when appropriate.

Examples of sections that should be revised and updated to a use-based hierarchy include: 708.1, 708.10(c), 712.1, 713.5, 713.6, 713.7, and 714.1. In addition, the following modifications should be considered to Sections 723 and 724:

- The adoption of such use-based regulations would eliminate the need for Section 723, which was carried over from the existing regulations and was intended to govern signage for office, commercial, and industrial uses permitted in residential and SP zones. In the alternative, Section 723 should be amended to clarify that it only applies to office, commercial, and industrial uses permitted by the BZA or Zoning Commission in residential and SP zones.
- The adoption of the above use-based regulations would also require modification of Section 724, to clarify that the limitations of Section 724 only apply to low-density residential uses in residential and SP zones. Signs for institutional uses, apartment houses, and permitted retail uses should be governed by the appropriate use-based restrictions.

Chapter 8 – DEAs

Sections 800.1(c) and 800.2(d). In order to further promote the development of the entertainment area contemplated around the Nationals ballpark, the Ballpark DEA should be expanded to include the east as well as the west side of 1st Street SE between M Street SE and Potomac Avenue SE.