

Sumter City-County Planning Commission

August 24, 2016

OA-16-07, Real Estate Signs (Off-premise and other signs) (City)

I. THE REQUEST

Applicant: Building Industry Association of Central SC

Request: Amend relevant portions Article 8, Section 8.h.6. Temporary Signs of the *City of Sumter Development Standards Ordinance* to allow off-premise real estate signs in all zoning districts, model home signs, and pennants and fluttering devices for real estate sales offices/model homes.



Off-premise Directional

Fluttering Device

Model Home

Examples of Sign types requested in OA 16-07

II. BACKGROUND

Off-Premise Signs

The Building Industry Association of Central SC (BIA) has filed an ordinance amendment to expand the use of both permanent and temporary signage for the real estate community, specifically, the “*new home communities.*” The BIA contends that “*without directional signs, potential home buyers often have an extremely difficult time navigating to the home site.*” Thus, the BIA is proposing to introduce new sign opportunities in all districts and for all uses.

We note that the Planning Commission and City Council reviewed the concept of off-premise signs as part of OA 14-09, which expanded sign opportunities on-site for developing communities. Each rejected any changes related to off-premise real estate signs at that time.

The Applicant’s strike-through proposal for **Off-Premise** signs:

- b. Off premise business directional signs are allowed only under the following conditions:
 1. Maximum size allowed on an off-premise business directional sign is sixteen (16 sq. ft.) **(32 sq. ft)** square feet;
 2. Maximum distance from business is ~~five (500 ft) hundred feet~~ **one mile**;
 3. Written letter from off-premise property owners(s) authorizing the placement of the sign on his/her property;
 4. The Board of Appeals may grant variances for the distance limits of no more than ~~five (500 ft) hundred feet~~ **one mile** for a total distance not exceed one (1,000 ft) ~~thousand feet~~ **two miles** from a business;
 5. Five (5 ft) foot setback from all property lines;
 6. ~~May not be placed in residential districts unless sign provides directions to residential zoned property.~~
 7. The off-premise sign will count as part of the number and total signage of on-premise signs allowed for each parcel of land.

Analysis and Impact

This request expands the category, size, and location for off-premise signs within the city limits. The request doubles the size of all off-premise signs. The request expands exponentially the distance a sign may be placed away from the business. The request would allow off-premise signs in residential districts for any use within 1 mile, be it residential or commercial.

Today the City permits off-premise directional signs within 500 feet of a business. The intent of this provision is to allow signage for businesses which may be difficult to identify or which may be challenged by its site characteristics—perhaps the business is tucked away behind another commercial business.

Based upon the Applicant's proposal, we understand that the off-premise sign would require a permit, would count against the on-site sign area allowance, and require the signature of the property owner for a permit to be issued.

The proposal to permit 32 s.f. signs in the residential districts is extraordinary, as no sign that large is typically permitted on a residential lot today (maximum 6 s.f.).

Model homes

The Applicant proposes additional changes to the model home portion of the sign ordinance. We note that other changes to this section were recommended by the Planning Commission and adopted by City Council in 2014.

The Applicant's strike through:

7. ~~Model Home Signs – Signs designed to indicate demonstration homes for marketing purposes in a subdivision are permitted in lieu of real estate signs, and subject to the above (1-6) :limited to hours of operation for demonstration homes.~~

Analysis and Impact

The current sign ordinance permits model homes signs, in lieu of the permitted 6 s.f.. real estate sign. Subsequent email conversations with the Applicant indicate they propose a 16 s.f. size for the model home sign along with hours of operation from 10 a.m. to 6 p.m. It appears the Applicant would like to allow both a 6 s.f. real estate sign, a 16 s.f. model home sign, and an unlimited number of pennants/fluttering devices (see next topic below) on a model home site.

One primary concern of this package of signage, among others to be summarized in the "Staff Recommendation" section, is its unbalanced approach to existing homes in established neighborhoods or subdivisions. This package would seem to provide new home communities with such additional sign opportunities not afforded to those existing Sumter residents.

Pennants and Fluttering Devices

The proposal reintroduces the concept of pennants and fluttering devices for discussion:

- f. Pennants and fluttering devices shall be allowed for sales offices and model homes for marketing purposes in a subdivision only during business hours.

Analysis and Impact

The City does not permit these types of signs under any circumstances. They are prohibited under Section 8.h.7. The community impact of allowing fluttering devices at an individual model home site is not obvious, we admit. However, there is a logical fairness question—why allow these devices for the sole use of the new home industry? Won't other business want to employ them? What about the existing home for sale in Crosswell, or Idlewild, or Wintergreen? We urge caution when carving out new entitlements for the benefit of one industry or special interest.

III. RECOMMENDATION

First, a recent Supreme Court decision in *Reed v. Town of Gilbert, AZ*, which called into question the constitutionality of Gilbert's sign ordinance (and therefore many other municipal sign ordinances), makes this area of law quite unsettled. **The concept of allowing different signs by category with different sizes is essentially at issue.** Although many jurisdictions are contemplating a rational reaction of the court decision, Staff believes it is imprudent to make any changes to the City sign ordinance until a more definitive path forward is identified. We believe a future comprehensive re-write of the City sign ordinance will be necessary. The Municipal Lawyers Association has circulated a number of drafts to date of a model ordinance; we are following that process closely.

Second, Staff questions whether there is enough compelling evidence that a problem actually exists within the City of Sumter which requires a solution as offered by the Applicant. There are lots of mapping resources, real estate agents, web sites, and even the telephone that can help any potential homebuyer locate a new development. There are more resources today than ever before.

Finally, we recommend changes to the ordinance when those changes benefit the City of Sumter and its citizens. Caution should apply when the changes expressly benefit one specific class of businesses or individual.

<p><i>This is a complex matter; Staff recommends OA 16-07 be forwarded to a Planning Commission Committee of the Whole work session for discussion.</i></p>
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IV. PLANNING COMMISSION – AUGUST 24, 2016

The Sumter City County Planning Commission at its meeting on Wednesday, August 24, 2016, voted to send this request to a Planning Commission work session for further discussion.

V. PLANNING COMMISSION – SEPTEMBER 28, 2016