



PLANNING BOARD AGENDA

**PINEVILLE TELEPHONE CONFERENCE ROOM
118 COLLEGE ST., PINEVILLE, NORTH CAROLINA
THURSDAY, JANUARY 17, 2019
6:30 P.M.**

- 1) Call Meeting to Order:
- 2) Moment of Silence
- 3) Determination of Quorum:
- 4) Approval of the Minutes from the February 22, 2018 Regular Meeting
- 5) Old Business: *None*
- 6) New Business:
 - A. ***Nomination of Chair and Vice-Chair*** – Each year the Rules of Procedure require that a Chair and Vice-Chair be selected for a one-year term. (***Action Item***).
 - B. ***TA2019-01 Text Amendment Request for Off-street Signage (Brian Elgort)***—a representative will be in attendance to answer any questions (***Informational Item***).
 - C. ***Update to Off-street Parking Requirements (Brian Elgort)*** – Review and discuss proposed amendments (***Informational Item***).
 - D. ***Clarification of Tractor Trailer Street Parking (Brian Elgort)*** – proposed change to clarify a conflict in code regulations (***Informational Item***).
 - E. ***Update on Nonconformities (Brian Elgort)*** – review and discuss proposed amendments (***Informational Item***).
 - F. ***Staff Update:*** 1) Discussion of Upcoming Meetings:
- 7) Adjourn:

If you require any type of reasonable accommodation as a result of physical, sensory, or mental disability in order to participate in this meeting, please contact Barbara Monticello, Clerk of Council, at 704-889-2291 or bmonticello@pinevillenc.gov. Three days' notice is required.



**MINUTES OF THE
PINEVILLE PLANNING BOARD
TOWN OF PINEVILLE, NORTH CAROLINA
THURSDAY, FEBRUARY 22, 2018**

The Pineville Planning Board held its regular meeting on Thursday, February 22, 2018 at the Pineville Telephone/Electric Building located at 118 College St., Pineville, NC at 6:30 p.m.

ATTENDANCE

Planning Board Members: Jim Knowles, Thomas White, and Scott Goldsmith, Eric Fransen, and alternate William Chaney were in attendance.

Planning Board Member Amelia Stinson-Wesley, was absent.

Planning Director: Travis Morgan

Town Planner: Brandon Hackney

Town Clerk: Barbara Monticello

CALL TO ORDER

Current Chair, Jim Knowles, called the meeting to order at 6:30 p.m. and established that a quorum had been met since five members were present. Member Amelia Stinson-Wesley was absent, but alternate member, William Chaney filled in.

ORDER OF BUSINESS

A general moment of silence was held.

Approval of Minutes for the September 28, 2017 Regular Meeting – Chairman Knowles called for a motion on the minutes from the September 28, 2017 regular meeting. There was no discussion on the minutes so a motion was made by Thomas White and seconded by Eric Fransen to approve the minutes as is. There were ayes by all and the minutes were approved as is.

NEW BUSINESS (Planning & Zoning Director, Travis Morgan, asked to change the agenda to begin with New Business first since the Lighting Ordinance was a little more straight-forward than the Sign Ordinance.)

- A. Review Proposed Changes to the Lighting Ordinance** – Town Planner, Brandon Hackney, began the meeting stating that Planning Director, Travis Morgan, was asked to take a look at the town's lighting ordinance to make any necessary updates. More and more businesses are switching over to using LED lights so the ordinance needed to be updated to reflect the wording from using the term "wattage" to now using "foot candles". This was more of a housekeeping formality to be sure the language reflected the correct terms.

Mr. Morgan stated that another reason to update the ordinance was because the Main St. merchants wanted to keep the perimeter lights on all year and not just during holiday season. There was also a request from Dave & Busters to have a halo affect around the top of their building. Mr. Morgan noted that, in the downtown area, as long as the lights were kept in good working order, the string lighting could remain. They wanted to have the same for the BP Zoning District where Dave and Buster's is located.

Planning Board Chair, Jim Knowles, asked if there was anything addressing flashing light signs. Mr. Hackney replied that flashing, fluttering, or flickering lights would all fall under the sign ordinance. Mr. Hackney explained that Queen City on Carolina Place Parkway had a new LED ground-mounted sign installed that rotated every 10-15 seconds which is not allowed under the current ordinance so he asked Queen City if they would change the timing on the sign to rotate every hour. Mr. Hackney asked the board for suggestions on determining what a fair rate of rotation would be so that it could be stated in the ordinance. Mr. Morgan also wanted to solidify the timeframe allowed between sign changes.

Mr. Morgan stated that there weren't many complaints about lights because the old ordinance addressed the lighting just fine, but with more LED lighting now being used, the terms and verbiage used in the ordinance just needed to be updated. Town Manager, Ryan Spitzer, asked if string lighting would be permitted in one color or multiple colors. Mr. Hackney replied that white was the only color allowed. Planning Board Member, Thomas White asked if the lights in the DC district can run all the time during business hours. Mr. Morgan said yes, before it was a seasonal lighting, but the merchants wanted the lighting year round so it was changed to accommodate them. Mr. Knowles asked who was maintaining the lights. Mr. Morgan wasn't sure but he supposed the owners would be responsible for it. Mr. Hackney added that the ordinance states that the lights must be maintained with no bulb burn-outs or sagging.

Discussion took place with several suggestions made ranging from one hour to every 20 minutes to every 5 minutes. After a few questions regarding lumens vs. wattage and making sure the equivalent was used in the updated ordinance language, everyone agreed that a five minute interval of time was reasonable for rotation of messages on the signs.

OLD BUSINESS

- A. *Review Updates to the Sign Ordinance*** -- Mr. Morgan wanted to address the sign ordinance last because it is a much bigger deal than the lighting ordinance. A Supreme Court ruling stated that signage must be content neutral which is not really a problem with our ordinance, but in most municipalities it is. The ruling basically wants to tie more closely to a time, place, and material rather than reading a sign to make a determination. One of the largest problems with signs were Grand Opening Signs and he wanted to look more closely at incidental signs in section 5.2.2 of the ordinance.

Mr. Morgan stated that with incidental signs for such things as loading, unloading, enter, and exit, it would be easier for staff if more minimum or maximums were established for them. How many incidental signs would be reasonable per property? That is what he is trying to accomplish with changes to this section of the ordinance. The rest of the unresolved issues are clarifications dealing with sign permits such as what is required on a sign permit and listing the requirements in the ordinance. For example, Dick's Sporting Goods in the BP district, did not think the regulations set forth in Section 5.4.4 allowing a maximum of only 300 sq. ft. for three tenants on a free standing sign was adequate especially if there were multiple tenants. Planning Board Member, Thomas White, asked for clarification regarding multiple signage using the Macy's building for example. He asked about three different signs being on each of the three façades of the one building, not altogether. Mr. Morgan clarified that it would be a 2:1 ratio up to 300 sq. ft. also depending on the building's size.

Another issue he would like resolved was for the board to consider how far inside a building is something considered a sign? For example, if there was a new glass window and the sign was 20 ft. behind the window, would that still be considered a window sign? Currently you can have a window sign at 25% of the window size. Mr. Goldsmith asked if a sign was positioned 24 inches inside the building, could they still have 25% of the store window for signage? Mr. Morgan answered yes, they could have one at both 24 inches inside and 25% of window with the exception of flashing signs. Mr. Chaney asked if a 60 inch TV screen with a video displaying the store's goods was hung 24 inches back would that be allowed? Mr. Morgan stated that would fall under the rotating sign section of the ordinance. In other words, they could have a 60" TV display with a video, but images could not change less than every five minutes. He added

that if there were any signs in town right now that were problematic, he should be made aware of it. He added that there were caps on the size a sign could be if the building was very large.

Mr. Knowles asked about hiring signs to which Mr. Morgan replied that they have been eliminated. They could have one inside the building but not outside and they could not put a temporary sign out for seasonal help either. Mr. Knowles then asked if businesses would be grandfathered in. Mr. Morgan stated that as long as they were operational yes, but once they are no longer operating and 90 days passed, they would have to abide by the new regulations. Mr. Knowles also asked about billboards to which Mr. Morgan replied that there would be no new billboards.

Mr. Morgan stated that Dick's Sporting Goods would be relocating to the Old Macy's along with Field & Stream, and Golf Galaxy which all will be vacating their existing buildings. Dick's has a large, existing sign that is non-conforming and the zoning issue that has come up is that off-site signage is not allowed and once Dick's leaves their sign will go away. The problem now is how to be fair to whatever business does move into that spot. Board Member, Thomas White, asked if that was not an isolated case to which Mr. Morgan replied that there were actually a handful of those type situations. Mr. White added that no one even knows there's a building back there without allowing them some type of signage. Board Member, Eric Fransen, asked how Dick's was able to get a sign but not Jared's? Mr. Morgan replied that something must have been worked out a long time ago or is specified in their covenants.

Discussion continued with various ideas tossed around like allowing one combined sign for Dick's property, Jared's and Office Depot but how much square footage would allow each? Whatever it would be would most-likely be an exception to the rule. All seemed to like the idea of one sign shared amongst the three properties, maybe with a written agreement of some sort in place. Mr. Chaney asked who owned the properties. Both Mr. Morgan and Mr. Hackney assumed the three properties were independently owned. Mr. Morgan asked that if anyone had any ideas, to let him know.

- A. **Staff Updates:** 1) *Joint Public Hearing.* Mr. Morgan stated that there would be Joint Public Hearing on March 13, 2018 but that there was nothing else on the horizon for the Planning Board. If after the Public Hearing the board was ready to make recommendation they were encouraged to do so by Mr. Morgan.
- B. **Adjournment:** There being no further business, Eric Fransen moved to adjourn the meeting at 7:54 p.m., with Scott Goldsmith seconding the motion. There were ayes by all to adjourn the meeting.

CHAIRMAN

DATE

TOWN CLERK

Memorandum

To: Planning Board
From: Brian Elgort
Meeting Date: 1/17/2018
Re: Text amendment to allow landlocked, single tenant buildings in the B-4 zoning district to share a monument sign with an adjacent property that has street frontage.

BACKGROUND:

Landlocked parcels are uncommon in the Town of Pineville. The parcel owned by the applicant was formerly occupied by Dick's Sporting Goods, which has since moved to the mall. Dick's Sporting Goods was allowed to build and have a sign on the adjacent parcel (PID #20709512) where Jared The Galleria of Jewelry is located. Because this existing sign is nonconforming, any new occupants of the former Dick's would not be allowed to use it in any way. The former Dick's Sporting Goods is over 500 feet from Pineville-Matthews Road; it shares a driveway with Jared The Galleria of Jewelry and Office Depot.

PROPOSAL:

Sherri Hartsell, on behalf of Sebanc-N-Car Investment Co LLC, has requested consideration of allowing landlocked, single tenant buildings in the B-4 zoning district to share a monument sign with an adjacent property that has street frontage.

5.4.4 Highway Business (B-4) and Planned Business Signs (B-P)

Permitted Sign Type(s) ¹	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
Wall ²	Front street facing or primary facade	2 sqft for each linear foot of wall frontage or 5% of wall whichever is greater.	n/a	n/a
Wall ²	Secondary Street	1 sqft for each linear foot of building facing side street	n/a	n/a
Window	Window glass area	25% of interior window and/or door area	n/a	n/a
Projecting	Traditional post-and-arms style wall mounted	24 sqft	n/a	1
Awning	Single color awnings only	Permitted as part of allowable wall signage	See note 3	n/a
Monument or Ground Mounted ⁴	Properties that can meet all freestanding sign requirements	50 sqft	7 ft	1

¹ Combined square footage of all signs shall not exceed 300 square feet.
² Wall Signs may project a maximum of 24" from the wall to which it is mounted. Secondary street wall signage allowances shall not be combined onto the front facade, however front or secondary signage may be transferred onto rear or similar facades. Multiple tenants located inside a single B-P zoned parcel of land over 100,000 sqft may utilize a 2:1 ratio for each building facade with the limitation that no facade may exceed 300 square feet of signage.
³ Sign must be placed a minimum of 5' inside property lines, outside of any sight triangle, and not within any existing or future sidewalk area. One ground mounted or monument sign is permitted. In the event of a double-sided sign, only one side shall be used to figure the square footage.

⁴ If the owner of a landlocked parcel containing a single tenant building reaches a written agreement with an adjacent parcel owner with street frontage, a Monument or Ground Mounted sign that includes signage for the landlocked parcel may be erected on the adjacent parcel with street frontage so long as all of the following conditions are met in their entirety:

- The new Monument or Ground Mounted sign will adhere to and be in compliance with all applicable sign regulations.
- The new Monument or Ground Mounted sign shall not exceed the maximums for a single parcel (i.e. will have a maximum area of 50 sq. ft.).
- Neither property may retain any nonconforming signs of any kind.
- There may be no freestanding signs on the landlocked parcel.
- The landlocked parcel owner may enter into only one (1) such agreement.
- The written agreement between the parcel owners must be notarized and submitted to the Planning Director or their designee.
- The entirety of the proposal must be approved by the Planning Director or their designee.

STAFF COMMENTS:

Staff recommends approval of the proposed text amendment. The amendment is quite narrow in language and intent, restricting the potential allowance by zoning district and unique hardship. The “Landlocked B-4 Properties” map provided to you indicates all of the parcels that could potentially be impacted by this amendment. The applicant’s parcel is the only one of these 12 potential sites that could feasibly make use of the allowance conveyed in this amendment. The text amendment requires the removal of any existing nonconforming signs and would produce a sign reminiscent of multi-tenant signs that exist on other parcels across Pineville while remaining within the existing sign restrictions for a single parcel. Furthermore, the Planning Director will have final approval of any such proposal, limiting the Town’s exposure.

PROCEDURE:

This is the informal informational meeting to help gain your input prior to the public hearing. This meeting is to familiarize you with the request and to hear preliminary pros and cons. No action is required at this meeting. Since this is a text amendment it will follow the standard legislative approval process.

Office Use Only:

Application #:

Payment Method: Cash Check Credit Card Amount \$400.00 Date Paid _____

Zoning Application

Note: Application will not be considered until all required submittal components listed have been completed

Applicant's Name: Sherri Hartsell Phone: 704-791-9789
Applicant's Mailing Address: 414 Russell St Kannapolis, NC 28083

Property Information:

Property Location: 9600 Pineville-Matthews Rd
Property Owner's Mailing Address: 345 COURT ST CORAPOLIS PA 15108
Property Owner Name: SEBANC N CAR INVESTMENT CO LLC Phone: _____
Tax Map and Parcel Number: LB M34-637 20709503 Existing Zoning: B-4

Which are you applying (Check all that apply):

Rezoning by Right Conditional Zoning Conditional Rezoning Text Amendment

Fill out section(s) that apply:

Rezoning by Right:
Proposed Rezoning Designation _____

Conditional Zoning:
Proposed Conditional Use _____
Acreage _____ Square Feet _____ Approximate Height _____ # of Rooms _____
Parking Spaces Required _____ Parking Spaces Provided _____ ****Please Attach Site Specific Conditional Plan**

Conditional Rezoning:
Proposed Conditional Rezoning Designation _____

Text Amendment:
Section 5.4.4 & 5.3 (K) Reason To allow single tenant buildings without road frontage in the B-4 zoning to share monument sign with property that has frontage
Proposed Text Change (Attach if needed) SEE ATTACHED

I do hereby certify that all information which I have provided for this application is, to the best of my knowledge, correct.

Sherri Hartsell
Signature of Applicant

12/12/2018
Date

Alta A. Sebane-Turbo
Signature of Property Owner (If not Applicant)

12-17-18
Date

[Signature]
Signature of Town Official

1/11/2019
Date

TEXT AMENDMENT PROPOSAL

5.4.4 Highway Business (B-4) and Planned Business Signs (B-P)

Permitted Sign Type(s) ¹	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
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Wall ²	Secondary Street	1 sqft for each linear foot of building facing side street	n/a	n/a
Window	Window glass area	25% of interior window and/or door area	n/a	n/a
Projecting	Traditional post-and-arm style wall mounted	24 sqft	n/a	1
Awning	Single color awnings only	Permitted as part of allowable wall signage	See note 3	n/a
Monument or Ground Mounted ^{3 4}	Properties that can meet all freestanding sign requirements	50 sqft	7 ft	1

¹ Combined square footage of all signs shall not exceed 300 square feet.

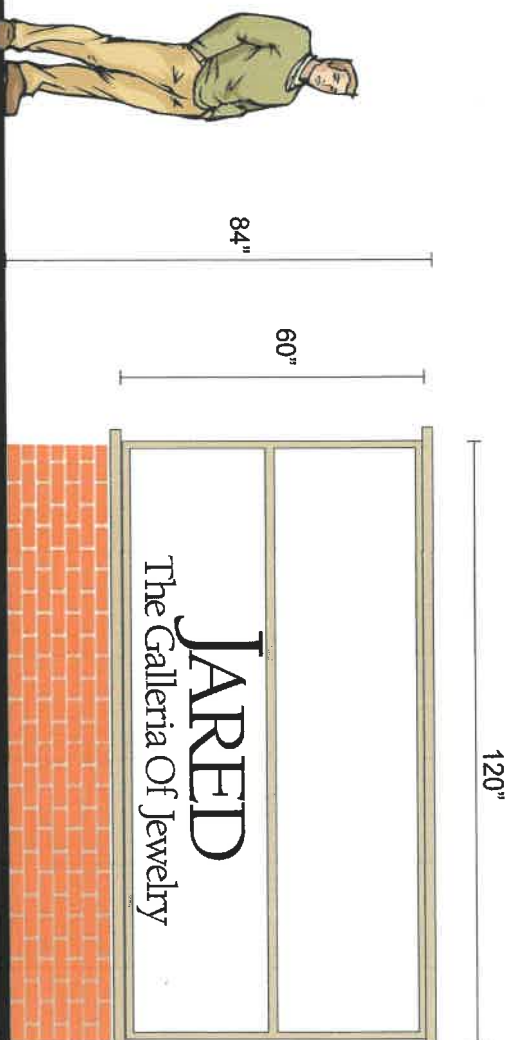
² Wall Signs may project a maximum of 24" from the wall to which it is mounted. Secondary street wall signage allowances shall not be combined onto the front façade, however front or secondary signage may be transferred onto rear or similar facades. Multiple tenants located inside a single B-P zoned parcel of land over 100,000 gross square feet may utilize a 2:1 ratio for each building façade with the limitation that no façade may exceed 300 square feet of signage.

³ Sign must be placed a minimum of 5' inside property lines, outside of any sight triangle, and not within any existing or future sidewalk area. One ground mounted or monument sign is permitted. In the event of a double-sided sign, only one side shall be used to figure the square footage.

Monument or Ground Mounted⁴

⁴ If the owner of a landlocked parcel containing a single tenant building reaches a written agreement with an adjacent parcel owner with street frontage, a Monument or Ground Mounted sign that includes signage for the landlocked parcel may be erected on the adjacent parcel with street frontage so long as all of the following conditions are met in their entirety:

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- The new Monument or Ground Mounted sign shall not exceed the maximums for a single parcel (i.e. will have a maximum area of 50 sq.ft.).
- Neither property may retain any nonconforming signs of any kind.
- There may be no freestanding signs on the landlocked parcel.
- The landlocked parcel owner may enter into only one (1) such agreement.
- The written agreement between the parcel owners must be notarized and submitted to the Planning Director or their designee.
- The entirety of the proposal must be approved by the Planning Director or their designee.



(1) Internally illuminated sign with plex faces and vinyl copy to mount on brick base.
Remove and dispose of existing sign.



SignArt

6225 Old Concord Road
Charlotte, NC 28213
P: 704.597.9901
F: 704.597.9908

www.signartsign.com

FILE NO

18240

ESTIMATE

The Navigator Group

PROJECT

9530 Prospera Matthews Rd
Frisco, NC

CLIENT/COMP

RS

DATE DATE

06/25/18

REVISIONS

1

2

3

4

5

6

RS

DATE DATE

06/25/18

BY

Manigault Group

NOTICE

ALL SHOPS MANUFACTURED FOR DICK'S ELECTRIKAL SERVICE LIMITEDS PERFORMANCE CENTER

APPROVED FOR PRODUCTION

Approved As Drawn
Approved As Field
Checked & Resubmit

Date: _____

Client: _____

Site: _____

File: _____

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Untitled Map
Write a description for your map



SignArt

6225 Old Concord Road
Charlotte, NC 28213
P. 704.597.9801
F. 704.597.9808
www.signartinc.com

18240
CLIENT:
The Navigator Group
ADDRESS:
9530 Peninsula Matthews Rd
Fletcher, NC

DATE SPECIFIC:
RS
ISSUE DATE:
06/25/18
REVISIONS:

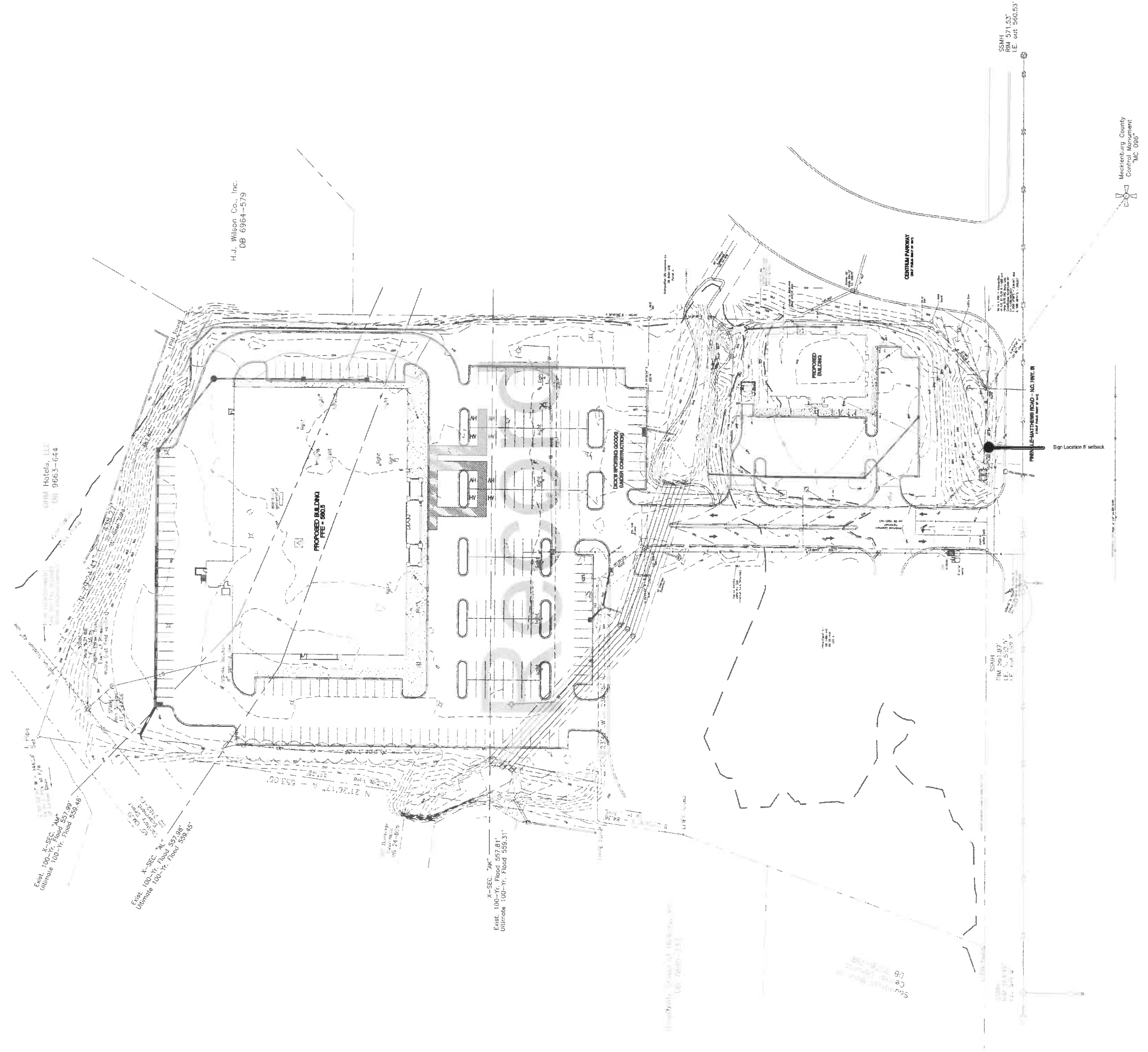
1
2
3
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DESIGNER:
RS
PROJECT:
Navigator Group

APPROVED FOR PRODUCTION

By: _____
Approved As Noted
Checked & Issued:
Date: _____
CMB: _____
SMB: _____
PMB: _____

NOTICE
ALL SIGNS MANUFACTURED
FOR 1200 ELECTRICAL SERVICE
UNLESS OTHERWISE NOTED

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OHM Hotels, LLC
Ph: 9063-644

H.J. Wilson Co., Inc.
DB 6964-579

Exist. 100-Yr. Flood 557.81'
Ultimate 100-Yr. Flood 559.31'

Exist. 100-Yr. Flood 557.81'
Ultimate 100-Yr. Flood 559.31'

Exist. 100-Yr. Flood 557.81'
Ultimate 100-Yr. Flood 559.31'

SSMH
RIM 571.53'
I.E. cut 560.53'

SSMH
RIM 571.53'
I.E. cut 560.53'

Mecklenburg County
Contract "NC 096"

Site
C
E

Horizontal Control of Stationing
(10' Stationing)

Memorandum



To: Planning Board

From: Brian Elgort

Date: 1/17/2019

Re: **Off-Street Parking Requirements Update** (*Informational Item*)

BACKGROUND:

The Off-Street Parking Requirements in the *Pineville Zoning Ordinance* have not been substantially updated in more than 10 years. Some of the existing requirements rely on confusing and difficult-to-calculate standards. Namely, staff believes that using a business's employee count as a standard for calculating parking space requirements is subject to fluctuation over time and is difficult to document and apply consistently.

PROPOSAL:

Staff recommends eliminating all employee-based calculations and using the following to calculate required parking:

- Square footage of gross floor area
- Use-specific, easily measured characteristics (i.e. number of bedrooms in a hotel/motel)

Additionally, the uses and their parking requirements will be divided under easier to find use-specific headers: "Residential Uses", "Commercial Uses", "Industrial Uses", and "Civic Uses". Doing so will make the ordinance easier to interpret and allow staff to introduce catch-all categories that should help diffuse issues that may arise in the future.

STAFF COMMENTS:

Staff believes that the proposed replacements are easier to interpret, calculate, and enforce. This will reduce confusion for developers and make reviewing applications a smoother process.

PROCEDURE:

This is the informal informational meeting to help gain your input prior to the public hearing. This meeting is to familiarize you with the proposal and to hear preliminary pros and cons. No action is required at this meeting. Since this is a text amendment it will follow the standard legislative approval process.

Memorandum



To: Planning Board

From: Travis Morgan

Date: 1/17/2018

Re: **Tractor Trailer Street Parking Clarification** (*informational meeting*)

BACKGROUND:

Staff has found possibly conflicting town code requirements with on-street tractor trailer parking. Section 72.14 states any vehicle over 80 inches (6'8") wide is prohibited from long term parking but tractor portion of tractor trailers are permitted on individual lots. The 80 inch on-street rule has an exemption for loading or unloading, point of destination, and repairs. Staff feels this needs clarification to avoid misinterpretation. The 15-foot free and clear road pavement rule still applies. There is also an issue with the 5,000-pound rule where tractor trailer cabs are allowed but a truck over 5,000 pounds is not.

TOWN CODE:

72.14 VEHICLES IN EXCESS OF 80 INCHES.

(A) It shall be unlawful for any person to park any vehicle which shall have a width in excess of 80 inches upon any of the streets of the town, for a continuous period of time longer than 30 minutes.

(B) This section shall not apply to motor vehicles momentarily stopped for the purpose of taking on or discharging passengers, or loading or unloading freight, at a point of origin or destination, nor shall it apply to motor vehicles accidentally and unavoidably disabled; provided, the parking or stoppage is necessary for emergency repairs, to permit the vehicle to be put in operating condition.

72.04 PARKING.

(16) On any street where there is less than 15 feet of unobstructed roadway as measured from the side of the vehicle facing the street.

ZONING ORDINANCE:

7.21.2 Commercial Vehicles

On any lot of less of than one (1) acre in size which is located in a residential subdivision of more than ten (10) lots, commercial vehicles which may be parked on an overnight basis shall be limited to school buses, vans and pick-up trucks (if no greater than 5,000 pounds).

This requirement shall not be interpreted to prohibit vehicles from loading and unloading household goods in any Residential District for a period of up to twenty-four (24) hours nor shall this restrict the overnight parking of freight truck tractors without trailers on any such lot.

No residentially-developed lot may be used as the base of operation for any freight hauling truck.

STAFF COMMENTS:

Staff has heard more and more complaints from residents about on-street parking in general but also specifically on narrow collector type streets such as Cone Ave. Staff recommends upholding the 80-inch-wide vehicle prohibition but also recommends painting yellow curbs to prohibit all on-street parking at narrow critical collector roads that are primary paths for emergency responders.

Staff also recommends removing tractor-trailer cabs from being parked on residential lots. Staff feels tractor trailer parking does not enhance residential character and will continue to be an item we have complaints against. Staff would also note the 5,000-pound limit. Some dually trucks and SUV's can run 6,000 pounds (3 tons) or more.

Staff would also like you input into future on street parking prohibitions (particularly on critical narrow collector roads such as Cone Ave.) Staff has received more complaints as parking on both sides of the street has made emergency response more and more difficult in narrow road situations.

Proposed:

TOWN CODE:

72.14 VEHICLES IN EXCESS OF 80 INCHES.

(A) It shall be unlawful for any person to park any vehicle, **trailer or equipment** which shall have a width in excess of 80 inches upon any of the streets of the town, for a continuous period of time longer than 30 minutes.

(B) This section shall not apply to vehicles used in association with any government approved roadway or utility project such as road repaving.

ZONING ORDINANCE:

7.21.2 Commercial Vehicles

On any residential use or residential zoned property, commercial vehicles shall be limited to school buses, vans and pick-up trucks (if no greater than **6,000 pounds**). See also Town Code 72.04.

This requirement shall not be interpreted to prohibit vehicles from loading and unloading household goods in any Residential District for a period of up to twenty-four (24) hours or vehicles in association with an active construction project with valid and approved building permits.

No residentially-developed lot may be used as the base of operation for any freight hauling truck.

PROCEDURE:

The is an informational workshop to get you input and suggestions ahead of a future Joint Public Hearing. The Town Council would also like your input with the Town Code modifications as well as the customary requirement in the Zoning Ordinance. No action is needed at this time. There will be a Joint Public Hearing and recommendation from you requested in the coming meeting cycle.

Memorandum



To: Planning Board
From: Travis Morgan
Date: 1/17/2019
Re: **Nonconformities Update** (*Informational Item*)

BACKGROUND:

The Nonconformities section (2.8) in the *Pineville Zoning Ordinance* has not been updated in some time. Staff feels it is appropriate to update clarify the language. This is also an opportunity for you to review and help guide staff to craft the ordinance to meet the town's long term goals.

PROPOSAL:

Please see the attached revisions – those sections with strikethrough will be removed, while the highlighted text is to be added.

STAFF COMMENTS:

Staff believes that the proposed changes will help to eliminate confusion and enforce a clearer understanding of the Town's administration of nonconformities. For instance, vague 'replacement value' wording has been clarified as 'tax value' for ease and clarity for determinations. The general goal from most municipalities is to allow nonconformities to remain 'grandfathered' but upon destruction or modification to require nonconformities to be brought into zoning compliance. Staff has built in a relief mechanism for structures in the way of allowing applicants to apply for conditional site plan approval as well. Nonconforming uses are typically more regulated in trying to remove existing not permitted uses within 90 days after the use is ceased.

PROCEDURE:

This is the informal informational meeting to help gain your input prior to the public hearing. This meeting is to familiarize you with the proposal and to hear preliminary review and comment. No action is required at this meeting. Since this is a text amendment it will follow the standard legislative approval process.

NONCONFORMITIES**2.8.1 General Intent and Exceptions**

The purpose of this Article is to regulate and limit the continued existence of uses and structures legally existing prior to the effective date of this Ordinance or any amendment subsequent thereto, but not to encourage its survival. Such nonconformities shall not be expanded or extended or changed in any manner, except as provided for in this Article. Creation of any nonconformities after the effective date of this Ordinance shall not be permitted.

2.8.2 Nonconforming Zoning Uses

- A) Nonconforming zoning uses or activities may continue only in accordance with the provisions of this Section.
- ~~B) A nonconforming use may be extended through any portion of a completed building that, when the use was made nonconforming by this Ordinance, was originally designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.~~
- B) No structural changes shall be made in any structure occupied by a nonconforming use except as follows:
- 1) Structural changes ordered by an authorized governmental official in order to insure the safety of the structure.
 - 2) Maintenance and repairs to keep a structure in sound condition or to bring the property into zoning compliance.
 - 3) The structural changes necessary to convert the nonconforming use to a conforming use.
 - 4) An existing nonconforming residential use located in any Business (B) or Industrial (G-I) District may, however, be enlarged or altered, provided that no additional dwelling units result there from. Any such enlargement or alteration shall be in compliance with all applicable zoning regulations such as yard requirements as required in the R-7 District and Residential Overlay District.
- ~~C) Said structure and its accompanying use may be moved to another location on the lot so long as the structure and the use meets all applicable requirements of the district.~~
- ~~D) A nonconforming use may be changed to another nonconforming use only in accordance with a permit issued by the Board of Adjustment as indicated in Section 2.1.3 of this Ordinance.~~
- E) When a nonconforming use of a structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- F) If a nonconforming use is discontinued, ceased, closed, or similar for ninety (90) days or more, the use shall not be allowed to re-establish. All new uses in said structure shall established thereafter shall be conforming.
- G) If a nonconforming use is destroyed (i.e., receives damage to an extent of more than sixty (60) percent of its replacement cost at the time of destruction tax value), it may not be allowed to reestablish. If a nonconforming use is thereafter a use conditionally permitted in that zoning district, a petition may be filed to the Town Council following normal conditional site plan approval process as

specified in this Ordinance.

H) Nonconforming single-family uses are excluded from F and G above.

2.8.3 Nonconforming Structures

A) A nonconforming structure is a structure the size, dimensions, location, or similar of which was lawful prior to the adoption, revision, or amendment to this Ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district in which it is located.

1) A nonconforming structure may not under any circumstances be enlarged or altered in a way which increases its nonconformity except as to bring the structure and property into zoning compliance.

2) A nonconforming structure may also request alterations meeting the intent of this ordinance following the conditional zoning site plan approval process

B) Natural Disaster and Destruction

Unless otherwise specified in below subsections a) or b), if a nonconforming structure or nonconforming portion of a structure is destroyed to an extent of more than sixty (60) percent of its replacement tax value at the time of destruction, it may only be replaced in accordance with a permit current zoning requirements as approved by the Planning Director. A structure or portion thereof, which is destroyed to such extent, may be reconstructed to the same degree of nonconformity provided that substantial and sustained reconstruction begins no later than six (6) months from the date of loss.

If substantial and sustained reconstruction does not occur within this period, the structure, or portion thereof, may not be reconstructed.

a) If the nonconforming structure is part of a multifamily (i.e. apartment) development, the structure may be rebuilt to the size and location before destruction provided the architectural and streetscape requirements are met.

b) If the nonconforming structure is occupied by an approved conditional zoning plan, the structure can be rebuilt to the allowances of the approved plan or brought before the Town Council for modification.

C) Vacancy

If a nonconforming structure is vacant from an active approved permitted use for three hundred and sixty-five (365) days or more, the parcel on which the structure is located will be required to conform to the landscape, streetscape, and signage requirements before a new use is permitted to occupy the nonconforming structure.

D) Relocation of Nonconforming Structures

Should a nonconforming structure be moved for any distance on the lot of record, it shall either thereafter be made to conform with all applicable provisions of this Ordinance or be moved to a location on the lot of record more in conformance with this Ordinance.

2.8.4 Nonconforming Lots of Record

- A) In any district where a lot of record has been legally recorded on a plat filed with the Mecklenburg County Office of the Register of Deeds and is nonconforming with current zoning requirements, that lot shall not be developed until that lot is made conforming.
- B) In any district where a lot of record has been illegally recorded on a plat filed with the Mecklenburg County Office of the Register of Deeds that lot shall not be developed until that lot is made conforming.

2.8.5 Discontinuance of Nonconforming Adult Oriented Businesses

2.8.6 Replacement of Nonconforming Manufactured Homes

2.8.7 Nonconforming Signs

Any sign existing prior to the adoption of this Ordinance, which does not conform to the provisions set forth in this Ordinance, shall be considered legally nonconforming. Such signs shall not be altered, enlarged, or extended.

- A) **Maintenance Permitted**
Nothing in this chapter shall prevent the ordinary maintenance repair of a nonconforming sign or replacement of a broken part of a nonconforming sign. The nonconforming condition of a sign shall not be increased or cause a previously conforming sign to become nonconforming. Whenever any nonconforming sign or part thereof (including the copy) is altered, replaced, converted or changed, the entire sign must immediately comply with the provisions of this Chapter.
- B) **Shopping Center Signs**
Existing nonconforming shopping center signs with five (5) or more tenant panels may maintain and update tenant sign panels in harmony with the original condition so long as no changes to the existing condition such as height, size, or style of the sign or structure are made.
- C) **Excessive Damage or Destruction**
Nonconforming signs, which are destroyed or damaged by fifty (50) percent or more of their value, shall not be rebuilt or repaired except in conformance with this Chapter.
- D) **Vacancy**
When the establishment to which a sign is related ceases or is vacated, the sign shall be classified as 'obsolete', and such sign, including all of its attendant supports, frames, and hardware, shall be removed within one hundred eighty (180) days of the cessation or vacating of the use or establishment unless such sign is used by a new use or establishment on the premises in accordance with all other provisions of this Chapter.
- E) **Expansions, Revisions, and Additions**

~~If there is an expansion of the heated square footage of an existing business, or a change in use to an existing building (except multi-tenant buildings), and there were one or more on-premise nonconforming signs which advertised the former or current business or use, any new signs and all new sign faces for the new use or business must meet all sign requirements for the district.~~

New, altered, or similar signs for any building, use, business or expansion shall be signs in compliance with this ordinance. Existing nonconforming signs may remain if unaltered but shall count against all new sign allowances. Such as: An existing nonconforming free standing sign must be removed prior to any new free standing sign. If existing nonconforming signs exceed the sign square footage currently allowed, no new signs shall be allowed.