



PLANNING COMMISSION MEETING AGENDA

Town Council Chambers
765 Lynn Street, Herndon, VA 20170
Monday, January 23, 2023 | 7:00 p.m.

1. Call to Order

2. Organizational Meeting Item

- a. Election of Officers

3. Approval of Minutes

- a. November 7, 2022, Planning Commission Work Session Minutes
- b. November 14, 2022, Planning Commission Public Hearing Minutes
- c. December 5, 2022, Planning Commission Work Session Minutes
- d. December 12, 2022, Planning Commission Public Hearing CANCELLED

4. Comments

- a. Comments from the Staff Members
- b. Comments from the Commissioners
- c. Comments from Citizens

Members of the public may, for one 3-minute period, provide public comments, requests, consent or general item comments, and comments on matters not included on the agenda.

5. Public Hearings

- a. **TOWN OF HERNDON FY 2024 – FY 2029 CAPITAL IMPROVEMENT PROGRAM (CIP).** The Planning Commission will take public comment on the Town's Capital Improvement Program (CIP) and will consider a recommendation to the Town Manager. The Town Manager will subsequently recommend an operating budget and CIP to the Town Council. The CIP is a financial planning document that establishes a six-year schedule for public improvements and serves as a companion policy document to the Town of Herndon 2030 Comprehensive Plan.
- b. **ZONING ORDINANCE TEXT AMENDMENT, ZOTA #22-01,** to revise regulations governing the maximum number of freestanding signs permitted with a drive-through use. Notice is hereby given to consider zoning text amendments to establish new, and clarify, revise, and/or delete, existing regulations and definitions in order to amend the sign regulations for drive-through commercial uses. The

proposed amendments under consideration include, without limitation: Chapter 78 (Zoning), Article XIV (Signs), and Section 78-141.4 (Sign Standards for Commercial Districts), and other articles as deemed necessary to revise the regulations.

6. ADJOURNMENT



MEMORANDUM

To: Chairman Romeo and Members of the Planning Commission

From: John M. Verdin, CIP Program Manager

Date: January 23, 2023

Subject: Draft FY2024-FY2029 Capital Improvement Program (CIP)

The following items are provided to follow up on the work session discussion and questions from the commission to staff.

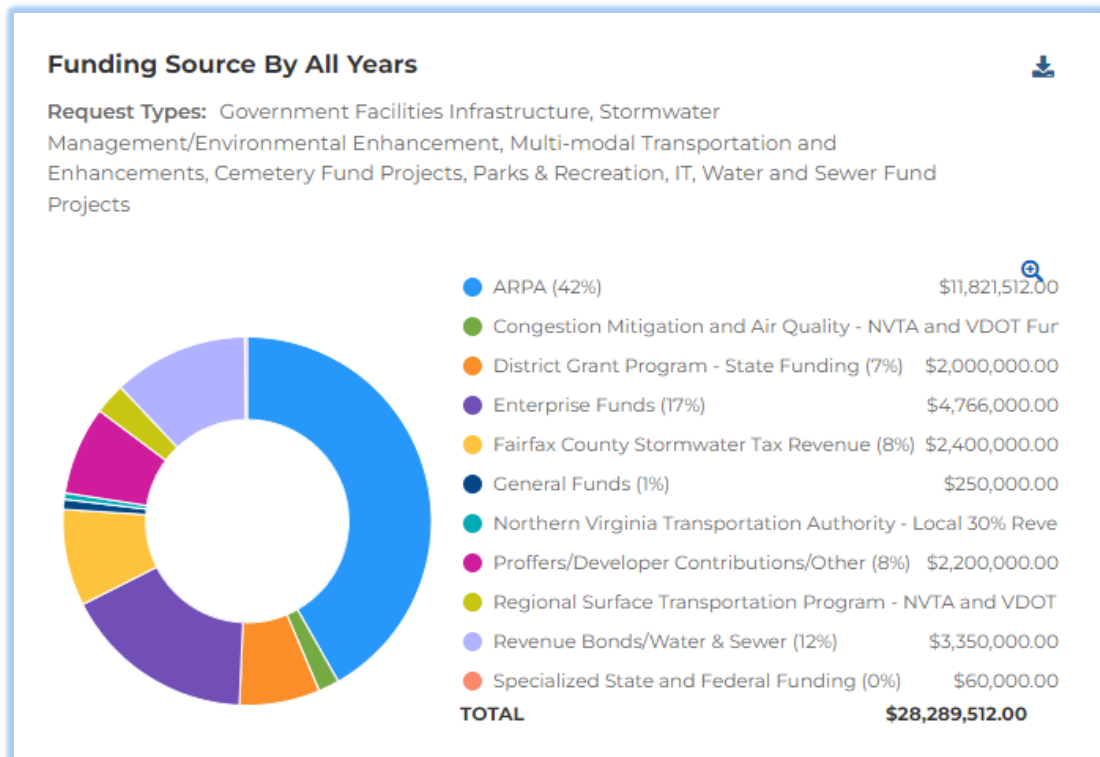
1. **The definition of equity** had been edited in the Draft CIP Prioritization Guidelines modified after the Planning Commission recommended removing the word “different” from the definition and move the word “vulnerable” between “impact” and “populations.” It now reads –

8. **Equity-** Projects that move the Town towards achieving social equity will score higher in this category. The score could be based on the answers to the following example question:
 - a. Does the proposed project positively impact vulnerable populations of lower incomes, races, education levels, language skills, ages, physical or mental abilities, or other populations?

2. **Confirming that the weight factors** for “Quality of Life” “Sustainability” and “Equity” conform to the Planning Commission’s recommendations when the CIP Review Committee scored the projects .

Point Scale ☒ 5 point scale ☐ 10 point scale + Add Criteria			
Criteria Title	Description	Weight	Actions
Long-Term Planning	The project included in a long-term planning document, is a high priority, and has been well-vetted.	2	Edit Delete
Health/Public Safety	This project directly addresses a serious health/safety issue that has a widespread impact.	3	Edit Delete
Infrastructure	The level of need for this project is high; it addresses existing infrastructure; and the ancillary benefits are well defined.	3	Edit Delete
Regulatory Compliance	This project resolves a pressing or long-term regulatory compliance issue.	4	Edit Delete
Impact on Operational Budget	This project will have a positive impact on the budget. It will have significant savings in time, materials and/or maintenance or revenue generating to more than offset costs.	2	Edit Delete
Quality of Life	The project greatly impacts the quality of life for a wide range of the Herndon Community.	3	Edit Delete
Location/Timing	Is the project needed and does the start or completion of the project affect other projects and is it more economical to build multiple projects together	2	Edit Delete
Sustainability	The projects moves the Town towards more sustainable and energy saving practices.	2	Edit Delete
External Funding	The project is fully funded (0-5)	5	Edit Delete
Equity	How the project promotes fairness and justice	2	Edit Delete

3. Projects requiring General Funds in FY24 were reviewed for accuracy and have been corrected in the FY24-FY29 CIP.
 - a. For FY24, the sole project that requires General funds is **Sidewalks, Trails and Bicycle Facilities** for \$250,000.00.
 - b. Both **East Elden Street – Duct Bank for Future Relocation** and **East Elden Street Improvements and Widening** had \$1,569,063.00 of expense and funding in FY24. The project is delayed and both the costs and funding have been pushed to FY25.



Memorandum from John M. Verdin
January 23, 2023
Page 3 of 2

The staff presentation at the Planning Commission Public Hearing on January 23, 2023 will reflect the changes made to the Draft FY24-FY29 CIP and it is the staff's recommendation to pass the attached resolution (Attachment #1 - PC FY24-FY29 CIP Resolution to Town Manager).

Please let me know if you have any questions at this time.

Sincerest regards,

John M Verdin
Capital Projects Program Manager
Town of Herndon, Department of Public Works
703-435-6800 x2068
john.verdin@herndon-va.gov



**TOWN OF HERNDON, VIRGINIA
PLANNING COMMISSION**

DRAFT RESOLUTION

January 23, 2023

Resolution- to recommend to the Town Manager of the Town of Herndon the Draft FY 2024–FY 2029 Capital Improvement Program (CIP) and the Commission’s priorities, as presented at the Planning Commission work session of January 9, 2023, and public hearing of January 23, 2023.

WHEREAS, the Planning Commission of the Town of Herndon, Virginia has reviewed the Draft FY 2024–FY 2029 CIP; and

WHEREAS, the Planning Commission has found that the draft CIP provides the necessary six-year financial planning schedule for the Town’s public facilities and improvements; and

WHEREAS, the Planning Commission has determined that the Draft FY 2024–FY 2029 CIP aligns with the Town’s 2030 Comprehensive Plan and the action items found in the Town’s adopted Pedestrian Plan and Bicycle Network Master Plan; and

WHEREAS, the Planning Commission recognizes that the Draft FY 2024–FY 2029 CIP is a draft and that adjustments will be necessary based upon additional information received during the finalization of the Proposed FY 2024 Operating Budget.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the Town of Herndon, Virginia, recommends the Draft FY 2024–FY 2029 CIP to the Town Manager of the Town of Herndon for further consideration and adoption.

BE IT FURTHER RESOLVED that the Planning Commission recommends

- 1) that the Town Hall Square Project is a priority which follows a plan to revive this core location; and
- 2) that ARPA funds be used for Water & Sewer Fund Projects to assist in reducing the eventual water rates increase; and
- 3) that the remaining General Government projects, receiving federal ARPA funding allocations in FY 2024, focus should be on maintaining existing major infrastructure and ensuring safety of operations.

STAFF REPORT

Planning Commission

January 9, 2023

Title: Zoning Ordinance Text Amendment ZOTA #22-01 to amend Chapter 78 (ZONING), Article XIV (Signs), Section 78-141.4 (Sign Standards for Commercial Districts), to increase the maximum number of freestanding signs permitted with a drive-through use.

Summary Information:

This zoning ordinance text amendment was submitted by Walsh, Colucci, Lubeley & Walsh, P.C. on behalf of Pollo Campero of Virginia, LLC. Pollo Campero received an approved special exception (SE #20-01) on March 23, 2021, for an eating establishment with associated drive-through service. The administrative site plan is under review with only minor comments and bonding remaining.

The town's sign ordinance was amended in 2016 (ZOTA #16-08) in order to comply with the 2015 United States Supreme Court decision on *Reed v. Town of Gilbert, Arizona* (hereinafter "Reed"). One unintentional result of the 2016 zoning ordinance text amendment is that existing menu board signs at drive-through eating establishments became legally nonconforming and new menu board signs have been prohibited. Pollo Campero is the first new drive-through eating establishment proposed within the town since the sign provisions have been amended.

In addition to the applicant's proposed zoning language, staff has provided an alternative version of the language for consideration by the planning commission.

Background:

Zoning History

The town was required to amend its signage regulations after the historic 2015 United States Supreme Court decision on *Reed*. Localities have always been prohibited from regulating the content of signs because of the First Amendment of the US Constitution. The *Reed* decision expanded what is considered content regulation. In simplified language, the Court determined that when there are two different by-right uses in the same zoning district, and the locality allows one use more signage than the other use, then the locality is regulating content. A real-world example would be if a locality allowed an office and a movie theater as by-right uses in a commercial district and the office use is limited to a sign of 30 square feet while the movie theater is allowed a sign of 50 square feet. Post *Reed*, this is considered regulating content because the zoning district is the same and both uses are allowed, yet one use is allowed "more speech" than the other use.

Localities are allowed to regulate signage in a way that is content neutral. Best practice for content neutral sign regulation is to adopt provisions for time, place, and manner.

- Time – This applies to temporary signs. Any time restrictions for temporary signs should be applied evenly and not be dependent on the type of temporary sign or event
- Place – This applies to temporary and permanent signs. Zoning can regulate sign placement or location on a site or on a building or structure. Signs can also be regulated based on zoning districts.
- Manner – This applies to temporary and permanent signs. Zoning can regulate physical attributes of signs, such as height, size, type, illumination, and number of signs.

Community Development staff has been aware that a zoning ordinance text amendment is necessary to address signage associated with drive-through establishments. This zoning text amendment has been a low priority for the department because the signage at existing drive-through establishments are allowed to remain as legally nonconforming signs and, prior to Pollo Campero, the town has not received an application for a new drive-through establishment since 2005.

Site Specific History

The applicant's site, 1131 Elden Street, currently contains the abandoned Herndon Auto repair shop. The applicant is proposing, and has received special exception approval, to demolish the existing building and redevelop the site with a new, freestanding Pollo Campero restaurant with a drive-through. The most recent staff review of the administrative site plan contained minor comments, and it is expected that the site plan will be approved by the town in the near term. The applicant has indicated that additional signage beyond what the zoning ordinance currently allows is required in order for their the drive-through to operate, their project to be successful and for them to move forward with redevelopment of the site.

Staff Analysis:

Consistency with the Comprehensive Plan

The comprehensive plan does not specifically address signage. The Comprehensive Plan does encourage a mix of commercial uses that bring economic vibrancy and tax revenues to the town.

Need for Current Amendment

The current language in Article XIV, Signs, is mostly unchanged from the 2016 amendment that occurred after the Reed decision. Staff has identified numerous provisions within Article XIV that should be amended in order to have signage provisions that are comparable and competitive with adjacent localities and that comply with the Reed decision. Resource and staffing constraints have prevented staff from initiating these text amendments. Drive-through related signs are one of the provisions staff has identified as needing to be updated in a zoning ordinance text amendment.

Proposed Changes

The scope of this text amendment is limited to properties that have an accessory drive-through used to support the principle use on the site. Drive-through establishments are only permitted by approval of a special exception; they are not allowed by-right. There are minor differences between the applicant's draft language and the staff language. They are summarized below.

- **Terminology:** The applicant proposes the terms “menu/info” signs and “directional” signs. Staff believes “primary drive-through” sign and “secondary drive-through” sign is more content neutral.
- **Number of signs:** Both drafts propose two larger signs. These signs are likely to be used as a menu board or pre-menu board. Both drafts propose four smaller signs. These are likely to be used as internal navigation/directional signs.
- **Size:** Both drafts propose a maximum square footage of 24 square feet for the larger signs. This is consistent with the size allowed in business parks and existing eating establishments with a drive-through. The smaller signs can be up to 6 square feet in the applicant's proposal, but staff is recommending they be limited to 4 square feet.
- **Height:** The applicant's proposal limits the larger signs to 7 feet and the smaller signs to 4 feet. Staff is recommending a maximum of 6 feet and 3 feet.
- **Location:** The applicant's proposal is a minimum setback of 5 feet for all drive-through signs. Staff is recommending a 25-foot setback for larger signs and a 5-foot setback for smaller signs.
- **Illumination:** Both drafts propose allowing internally lit, halo-lit, or indirect lit illumination.
- **Duration:** The applicant's proposal proposes unlimited duration. Staff is recommending that all drive-through related signs on site be removed if the drive-through use no longer exists.

Impact if Approved

If either version of the draft language is approved, the existing drive-through establishments may conform with the existing language or continue as legally nonconforming and it will allow Pollo Campero to proceed with their project.

Planning Commission Alternatives:

The following alternatives are available to the planning commission for its decision on Zoning Ordinance Text Amendment ZOTA #22-01:

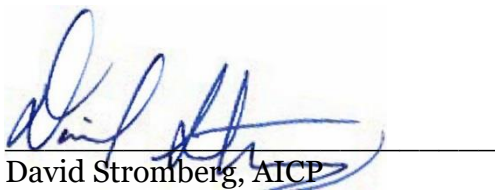
1. Recommend the town council approve the draft ordinance submitted by the applicant
2. Recommend the town council approve the draft ordinance provided by staff
3. Continue the public hearing on this draft ordinance to the February 13, 2023 public hearing

Staff Recommendation:

Staff recommends the planning commission approve the draft ordinance for ZOTA #22-01 in accordance with **alternative 2**.

Attachments:

1. Applicant Draft Ordinance
2. Staff Draft Ordinance
3. Applicant Statement of Justification



David Stromberg, AICP
Zoning Administrator

Exhibit A: Table 78-141.4(b) with Revisions Highlighted

Sec. 78-141.4. - Sign standards for commercial districts.

(a) *Freestanding, wall and temporary signs.* Except as otherwise prohibited in this article, the following signs are permitted as accessory to any properties within the commercial service (CS), commercial office (CO), planned development-business (PD-B), and office and light industrial (O&LI) zoning districts. The following standards apply.

TABLE 78-141.4(a): SIGN STANDARDS FOR FREESTANDING, WALL AND TEMPORARY SIGNS IN COMMERCIAL DISTRICTS			
Type	Freestanding	Wall	Temporary
Number	1 per street frontage, 2 max.; or, 2 max. per street frontage with more than one primary entrance and more than 300' of frontage	Unlimited	Up to 1 per street frontage
Size	1 SF of sign area for each linear foot of frontage. 50 SF Max. per sign	1 SF of sign area for each linear foot of frontage. 150 SF Max. per sign	24 SF Max.
Height	8' Max. 6" Min. letter height		If freestanding: 6' max.
Location	5' Min. from ROW	No more than 20' high on building facade; except on properties zoned CS or PD-B, where wall signage may be located an additional 1' higher on the building's façade than otherwise permitted, for every 5' of distance greater than 100 feet from the façade to the ROW, but shall not exceed 30'	If freestanding: 5' from ROW; if wall: No more than 20' high on building
Illumination	Internally Lit, Halo-lit or Indirect Lit	Internally Lit, Halo-lit or Indirect Lit	None
Duration	Unlimited	Unlimited	Short term: 60 Days, per calendar years Long term: 6 months, per calendar year

(b) *Projecting, parapet, internal ~~and~~, light pole banner ~~and drive-through~~ signs.* Additional sign types are permitted in the commercial service (CS), commercial office (CO), planned development-business (PD-B), and office and light industrial (O&LI), zoning districts. Additional sign types do not increase the total aggregate sign area permitted per building frontage. The following standards apply.

TABLE 78-141.4(b): STANDARDS FOR PROJECTING, PARAPET, INTERNAL AND , LIGHT POLE BANNER SIGNS AND DRIVE-THROUGH RELATED SIGNS IN COMMERCIAL DISTRICTS					
Type	Projecting	Parapet	Internal	Light Pole Banners	Drive-Through Related
Number	1 per establishment frontage	Up to 2 per building	Up to 3 per primary building	No more than 35% of on-site light poles	Up to 2 Menu/Info signs Up to 4 directional signs
Size	12 SF max.	150 SF max. per sign	24 SF max. per sign	6 SF max.	If freestanding: 24 SF max per sign If directional: 6 SF max per sign
Height	N/A	N/A	If freestanding: 6' max; if wall: 10' max	Not to exceed height of pole	If freestanding: 7' max If directional: 4' max 5' Min from ROW
Location	Limited to ground floor; or 20' above normal grade whichever is less.	On parapet of multi-story buildings; and, when located in O&LI, 175' separation between signs located on same building elevation	At least 50' from any ROW	Limited to on-site light poles	
Illumination	Internally Lit, Halo-lit or Indirect Lit	Internally Lit, Halo-lit or Indirect Lit	Internally Lit, Halo-lit or Indirect Lit	Indirect from site lighting	Internally Lit, Halo-lit or Indirect Lit
Duration	Unlimited	Unlimited	Unlimited	No more than 3 continuous months, once a year	Unlimited

TOWN OF HERNDON, VIRGINIA

ORDINANCE

_____, 2023

Ordinance - to amend Chapter 78 (ZONING), Article XIV (Signs), Section 78-141.4 (Sign Standards for Commercial Districts), and Section 78-180 (Definitions), to revise the regulations governing the maximum number of freestanding signs permitted with a drive-through use.

Sec. 78-141.4. – Sign standards for commercial districts.

(b) *Projecting, parapet, internal, ~~and~~ light pole banner, and drive-through related signs.* Additional sign types are permitted in the commercial service (CS), commercial office (CO), planned development-business (PD-B), and office and light industrial (O&LI) zoning districts. The following standards apply.

TABLE 78-141.4(b):

STANDARDS FOR PROJECTING, PARAPET, INTERNAL, ~~AND~~ LIGHT POLE BANNER, *AND DRIVE-THROUGH RELATED* SIGNS IN COMMERCIAL DISTRICTS

Type	Projecting	Parapet	Internal	Light Pole Banners	<i>Drive-through related</i>
Number	1 per establishment frontage	Up to 2 per building	Up to 3 per primary building	No more than 35% of on-site light poles	<i>Up to 2 primary drive-through signs and up to 4 secondary drive-through signs</i>
Size	12 SF max.	150 SF max. per sign	24 SF max. per sign	6 SF max.	<i>24 SF maximum per sign for primary drive-through signs and 4 SF maximum per sign for secondary drive-through signs</i>

Height	N/A	N/A	If freestanding: 6' max; if wall: 10' max	Not to exceed height of pole	<i>Maximum 6' for primary drive-through signs and maximum 3' for secondary drive-through signs</i>
Location	Limited to ground floor; or 20' above normal grade whichever is less.	On parapet of multi-story buildings; and, when located in O&LI, 175' separation between signs located on same building elevation	At least 50' from any ROW	Limited to on-site light poles	<i>Minimum of 25' from the ROW for primary drive-through signs and minimum 5' for secondary drive-through signs</i>
Illumination	Internally Lit, Halo-lit or Indirect Lit	Internally Lit, Halo-lit or Indirect Lit	Internally Lit, Halo-lit or Indirect Lit	Indirect from site lighting	<i>Internally Lit, Halo-lit, or Indirect Lit</i>
Duration	Unlimited	Unlimited	Unlimited	No more than 3 continuous months, once a year	<i>Must be removed if drive-through use ceases</i>

Section 78-180. – Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section.

Sign related terms. The following definitions pertain to signs and signage in all zoning districts:

- (1) *A-frame sign.* A-Frame sign means a two-faced sign with supports that are connected at the top and separated at the base, forming an "A" shape. These are also referred to as "sandwich board" signs.
- (2) *Awning sign.* Awning sign means a sign placed directly on the surface of an awning.
- (3) *Blade sign.* Blade sign means a projecting sign that is vertically oriented and mounted on a wall perpendicular to the wall plane.
- (4) *Box sign.* Box sign means a wall sign designed with a cabinet that houses internal illumination and faced with a translucent panel containing the sign copy.
- (5) *Building frontage.* Building frontage means the length of the exterior wall of a building which physically encloses usable interior space and faces a public right-of-way.
- (6) *Canopy sign.* Canopy sign means a sign affixed on a canopy.
- (7) *Changeable copy sign.* Changeable copy sign means a sign or part of a sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign.
- (8) *Design guidelines.* Design guidelines mean the guidelines found in either the Historic District Overlay Guidelines, the Downtown Herndon Pattern Book or the Urban Design & Architectural Guidelines for the Herndon Transit-Oriented Core.
- (9) *Drive-through related sign.* A sign located on the same parcel as an establishment with a physical drive-through lane associated with the principal use. Drive-through signs are either primary or secondary.
- (10) *Flag.* Flag means a piece of cloth or similar material, typically rectangle, attachable by one edge to a pole or rope.
- (11) *Flashing sign.* Flashing sign means a sign that includes lights that flash, blink, or turn on and off intermittently.
- (12) *Freestanding sign.* Freestanding sign means a sign that is supported by structures or supports in or upon the ground and independent of any support from any building or wall.
- (13) *Illegal sign.* Illegal sign means any sign erected without a required permit or which otherwise does not comply with any provisions of this article.
- (14) *Illuminated sign.* Illuminated sign means a sign that is halo-lit, internally lit, or indirectly lit, but does not include a neon sign.

- ~~(14)~~ **(15)** *Internal sign.* Internal sign means freestanding or wall signs that are located away from the right-of-way (more than 50 feet) on multi-tenant, multi-parcel, and multi-building commercial centers.
- ~~(15)~~ **(16)** *Master sign plan.* Master sign plan means a coordinated, comprehensive sign program for a multi-tenant commercial property or center that sets specific sign standards for that property or center.
- ~~(16)~~ **(17)** *Minor sign plan.* Minor sign means a wall or freestanding sign not exceeding two square foot in area and not illuminated or neon.
- ~~(17)~~ **(18)** *Moving sign.* Moving sign means a sign any part of which moves.
- ~~(18)~~ **(19)** *Neon sign.* Neon sign means a sign containing exposed tubes filled with light-emitting gas.
- ~~(19)~~ **(20)** *Nonconforming sign.* Nonconforming sign means any sign which was lawfully erected in compliance with applicable regulations of the Town and maintained prior to the effective date of this chapter of the zoning ordinance and which fails to conform to current standards and restrictions of the zoning ordinance.
- ~~(20)~~ **(21)** *Normal grade.* Normal grade means the grade at the edge of the adjacent public or private street.
- ~~(21)~~ **(22)** *Off-site sign.* Off-site sign means a sign that directs attention to a business, product, service or activity conducted, sold or offered at a location other than the premises on which the sign is erected.
- ~~(22)~~ **(23)** *Parapet sign.* Parapet sign means a wall sign installed on the parapet of a multi-story building.
- ~~(23)~~ **(24)** *Pole sign.* Pole sign means a sign that is mounted on one or more freestanding poles.
- ~~(24)~~ **(25)** *Projecting sign.* Projecting sign means any sign, affixed to a building, supported only by the wall on which it is mounted, and oriented perpendicular to the wall plane on which it is anchored.
- ~~(25)~~ **(26)** *Raceway transformer.* Raceway transformer means a running electrical transformer box affixed to and housing the circuitry for internally illuminated wall signs.
- ~~(26)~~ **(27)** *Review board.* Review board means either the architectural review board or the historic district review board.
- ~~(27)~~ **(28)** *Roof sign.* Roof sign means a sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.
- ~~(28)~~ **(29)** *Sign.* Sign means any word, numeral, figure, design, trademark, flag, pennant, twirler, light, display or other device of any kind which, whether singly or in any combination, is used to attract attention, direct, identify, inform, persuade, advertise for the purpose of visually attracting attention of the public while viewing the sign from outdoors.

~~(29)~~ **(30)** *Sign face*. Sign face means the portion of a sign structure bearing the message.

~~(30)~~ **(31)** *Sign structure*. Sign structure means any structure bearing a sign face.

~~(31)~~ **(32)** *Temporary sign*. Temporary sign means any sign intended to be displayed for a limited period.

~~(32)~~ **(33)** *Vehicle or trailer sign*. Vehicle or trailer sign means any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service or activity. Any such vehicle or trailer shall, without limitation, be considered to be used for the primary purpose of advertising if it fails to display current license plates, inspection sticker, or municipal decal, if the vehicle is inoperable, if evidence of paid-to-date local taxes cannot be made available, or if the sign alters the standard design of such vehicle or trailer.

~~(33)~~ **(34)** *Wall sign*. Wall sign means any sign attached to a wall or painted on or against a flat vertical surface of a structure.

~~(34)~~ **(35)** *Window sign*. Window sign means any sign visible outside the window and attached to or within 18 inches in front of or behind the surface of a window or door.

~~(35)~~ **(36)** *Wind sail sign*. Wind sail sign means a lightweight, portable sign mounted along one edge on a single, vertical, flexible pole the physical structure of which may resemble a sail, bow, feather, or teardrop.



**WALSH COLUCCI
LUBELEY & WALSH PC**

Kelly A. Posusney
Land Use Planner
(703) 528-4700 Ext. 5471
kposusney@thelandlawyers.com

November 8, 2022

By Email and Hand Delivery

Elizabeth M. Gilleran, AICP
Director of Community Development
Town of Herndon
777 Lynn Street, 2nd floor
Herndon, Virginia 20172-1427

Re: Proposed Zoning Ordinance Text Amendment
Table 78-141.4(b) – Drive-Through Signage in Commercial Districts
Applicant: Pollo Campero of Virginia, LLC

Dear Ms. Gilleran:

On behalf of the Applicant, please accept this letter as a request for consideration of a Zoning Ordinance Text Amendment (“ZOTA”) pursuant to Section 78-155.2 of the Town of Herndon Zoning Ordinance (the “Ordinance”).

Pollo Campero is currently processing a site plan to construct a new 2,991 square foot restaurant on Tax Map Parcel 16-1 ((405)) 9B, known as 1131 Elden Street, and located in the Commercial Services (“CS”) Zoning District. On March 23, 2021, the Town Council approved Special Exception Application SE #20-01, subject to development conditions, to permit an eating establishment with drive-through service use at 1131 Elden Street.

During the review of the site plan, the Applicant discovered that the Zoning Ordinance does not allow for certain signage typically found with a restaurant with drive-through use, such as menu boards and illuminated directional signs. As such, Pollo Campero requests consideration to amend Table 78-141-4(b) of the Ordinance to permit additional freestanding signs and illuminated minor signs for drive-through service uses in commercial districts. Proposed additions to Table 78-141-4(b) are highlighted in Exhibit A.

The request, if approved, will address the need for adequate signage to support eating establishment with drive-through service uses. The provision of adequate signage is in the Town’s interest since it promotes viable business endeavors which, in turn, result in economic vibrancy and substantial tax revenue.

ATTORNEYS AT LAW

703 528 4700 ■ WWW.THELANDLAWYERS.COM
2200 CLARENDON BLVD. ■ SUITE 1300 ■ ARLINGTON, VA 22201-3359

LOUDOUN 703 737 3633 ■ PRINCE WILLIAM 703 680 4664 ■ WINCHESTER 540 667 4912

Section 78-155.2(g) Standards for Zoning Text Amendments

Section 78-155.2(g) of the Town Code lists certain factors that should be considered when deciding whether to grant a Zoning Text Amendment. Each standard for a Zoning Text Amendment is listed in bold below, followed by the Applicant's response in italics:

1. Comprehensive plan compliance: Consistent with the comprehensive plan.

There are no specific Comprehensive Plan references that apply to this request; however, a general goal of the Town Council is to promote a healthy mix of commercial land uses that brings to the town economic vibrancy and substantial tax revenue.

2. Meets regulations: Free of conflict with any provision of this chapter, related town regulations, or any other applicable local, state, or federal laws and regulations.

This request, if approved, will be free of conflict with any provision of the Town Code, related town regulations, and any other applicable local, state, or federal laws and regulations.

3. Change in conditions. Changed conditions justify an amendment.

As stated previously, during the review of the site plan, it was discovered that the Zoning Ordinance does not allow for certain signage universally found with a restaurant with drive through use, such as menu boards and illuminated directional signs. Apparently, the omission of these types of signs was an oversight the last time the sign regulations were amended. This text amendment will address the need for adequate signage to support eating establishment with drive-through service uses.

4. Demonstrated community need: Addresses a demonstrated community need.

The community needs a variety of retail services, including eating establishments with drive-through service. The recent pandemic amplified this need. For such uses to be viable and serve the community, they need proper signage. This amendment will ensure drive-through uses such as Pollo Campero can be successful.

5. Consistent with purpose and intent of districts: Consistent with the purpose and intent of the zoning districts in this chapter, or will improve compatibility among uses and will ensure efficient development within the town.

The provision of adequate signage is consistent with the purpose and intent of the CS zoning district.

6. Promotes orderly development: Results in a logical and orderly development pattern consistent with accepted or emerging planning practices.

The provision of adequate signage assists with the logical and orderly development pattern consistent with accepted or emerging planning practices.

- 7. Avoids adverse impacts: Avoids adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.**

The provision of adequate signage has no impact, positive or adverse, on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

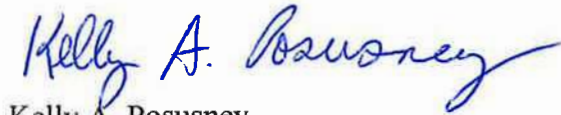
- 8. Adequate facilities and utilities: Results in development that is adequately served by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).**

The provision of adequate signage has no impact to a development's adequate service by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).

As required, please find enclosed a check in the amount of \$250 for the processing of this Zoning Ordinance Text Amendment request. Pollo Campero looks forward to working with you on this request. Please let me know if you need any additional information.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.



Kelly A. Posusney
Land Use Planner

cc: Fabiola Suarez
Jeff Smith

Exhibit A: Table 78-141.4(b) with Revisions Highlighted

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