

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 17, 2003
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: PHILIP SUNDERLAND, CITY MANAGER *ps*
SUBJECT: POLITICAL SIGNS

ISSUE: Whether to change the regulations for political signs during election periods.

RECOMMENDATION: That City Council: (1) request staff to draft changes to the political sign regulations, consistent with those outlined in this memorandum; and (2) refer the revised regulations to the Planning Commission as a text amendment to the zoning ordinance; and (3) meet with representatives of the local Democratic and Republican parties and the League of Women Voters to obtain their input for inclusion in the staff report on the text amendment.

DISCUSSION: At its May 17 public hearing meeting Council discussed the issue of political signs and considered potential changes to the zoning ordinance to address the proliferation of political signs during election campaigns. Council asked staff to draft a conceptual approach to revising the political sign regulations for Council's consideration.

At the public hearing, Council heard testimony about the proliferation of political signs during the 90 days prior to an election. Speakers noted the unattractive appearance of the City during election seasons because of the extensive signage and the difficulty the signs create for maintaining the public right of way areas throughout the City. In addition, some speakers were concerned about the traffic hazard often created by signs in medians and at intersections. Others testified about the need to balance freedom of speech considerations, and the benefit that signage provides to the uneducated voter and new, potentially underfunded, political candidates. Other speakers said that the City's rules are difficult to understand. Council concluded that changes were necessary and asked staff to consider whether a series of specific changes could be reasonably accommodated.

Current Political Sign Rules for Elections

Under the current ordinance, political signs may be displayed on private property in any zone, without limitation as to time or size, if authorized by the owner of the property. In addition, political signs are permitted on public rights of way, subject to the following limitations:¹

¹Section 9-104(E) of the Zoning Ordinance generally prohibits all non-governmental signs in the public rights-of-way. However, an exception is made for political signs, as well as (i) signs for

- signs are only permitted in the grass surfaced portions of the public rights-of-way (this excludes signs forced into concrete breaks or in flower beds);
- each sign must be freestanding and may be no taller than 42 inches;
- each sign may be supported by no more than two small posts;
- no signs are permitted on the George Washington Memorial Parkway (which includes all of Washington Street);
- no signs are permitted within 15 feet of an intersection;
- no signs are permitted within 15 feet of the end of a median strip;
- no signs are permitted on a traffic channelization island;
- signs may only be displayed beginning 90 days prior to an election;
- all signs must be removed by the 15th day following an election, unless there is a runoff; and
- a bond of \$100 dollars must be deposited to secure compliance with the fifteen day removal rule.

Proposed Changes to Rules for Political Signs

At its public hearing, Council asked staff to consider several potential specific changes, including:

1. Limit the time during which signs are allowed prior to an election to 60 days. The current rule allows signs to stay in the right of way for 90 days prior to an election and the proposed 60 day rule is one simple way to limit the effect of election signage.
2. Restrict candidates signs to medians only and designate specific medians where signage is permitted. Council discussed prohibiting signs on the sides of roads and at intersections as one means of limiting signs. Council proposed to continue to allow signs in median areas but asked staff to determine how to best advise candidates where signs were permitted. Staff has identified grass medians in the City where political signage is feasible and has been able to display those areas on the attached map, which is an example of what can be created for candidates. The highlighted areas on the map need to be studied further in order to create a final map for purposes

which an encroachment ordinance has been approved by council, (ii) temporary (10 day) banners across a street or alley that have been approved by council or the city manager, (iii) signs projecting no more than four feet from the face of a building, if at least eight feet above a sidewalk or 14.5 feet above an alley, and (iv) street address numbers painted on curbs.

of disseminating to candidates. However, the attached map (Attachment 1) indicates to staff that there is a means of demonstrating permitted sign areas for candidates.

3. Restrict the number of signs per candidate to two signs per median. The most significant change to the political sign rules suggested by Council restricts allowable signs to two signs per candidate per median. If Council wishes to proceed with this change, staff would recommend that the restriction be: two signs per candidate per median island or linear median dimension of 200 feet, whichever is less. The length of many familiar median islands, such as on Commonwealth Avenue, is 200 feet, the length of the end of a standard block end on the east part of the City. Again, staff will continue to refine the median map to ensure that this limitation will work effectively on every median identified on the map.

Staff would, however, point out two potential problems with this proposed limitation. First, as pointed out at the hearing, there is room for some mischief with the rule in practice. Violations could be created if one candidate moves another's sign from one median to another. Secondly, this rule adds restrictions to the existing regulatory scheme which may increase the number of violations. The issue of enforcement is discussed below.

4. Do not increase the amount of the bond, but expand its effect to include all of the political sign rules. The current bond requirement is \$100, and is paid at the time a candidate seeks a permit for signs. Under the current ordinance, the bond is forfeited only if signs are not removed within 15 days after an election. Council heard testimony on the question of whether the amount of the bond should be increased, but stated a preference for the existing bond amount, especially given the budgets of new candidates and School Board candidates. Although not discussed by Council, staff notes that the current \$100 bond amount may be more effective if the ordinance were changed to state that the bond would be forfeited for any violations of the political sign rules, not only the removal rule.

5. Change the removal rule to require the removal of the sign posts as well as the signs themselves. Most political signs are now small and erected on two thin metal posts that are inserted into the ground. When the signs are removed as required, the posts are often not removed, and remain in the ground. Council asked staff to include a requirement that candidates remove the sign posts as well as the sign, because the remaining posts, which are almost invisible, are dangerous to City workers attempting to remove them and to City mowing machinery.

6. Make the political sign rules easy to understand and state them positively. Staff will rewrite the rules for signs that it disseminates to candidates, making them as simple and straightforward as possible. As with the attached median map, it will undertake to advise candidates of the rules for sign placement and removal in as positive a manner as possible.

7. Ensure traffic safety. Specific changes to the existing rules regarding traffic safety were not identified by Council, although Council discussed the subject generally. Staff suggests that the

existing sign rules limiting signs for traffic safety be expanded to cover at least one specific traffic safety problem. The ordinance currently prohibits signs within 15 feet of an intersection, and within 15 feet of the end of a median. Signs within traffic channelization islands are also prohibited. Given the difficulty drivers experienced this past election season attempting to turn left from the Minnie Howard parking lot onto Braddock Road, staff proposes at least one additional rule: that on a four lane road no signs be permitted within 50 feet of the end of a median.

Staff has reviewed the proposed changes above and believes they will result in fewer signs in more discrete locations, thus enhancing the current system. Staff, however, does have some concerns about the expectations for enforcement of the political sign rules.

Enforcement of Political Sign Regulations

In the past, the Planning and Zoning Department has undertaken limited enforcement of the rules for political signs. However, staff acknowledges two aspects of its enforcement that Council may wish to change. If Council believes that staff should change its enforcement practices, especially if and when new rules are adopted limiting the number of signs in medians, then staff recommends that it be clear and specific, including language in the ordinance, regarding Council's expectations and staff's obligations.

1. *Proactive Enforcement.* First, as a general rule, staff's work with regard to potential illegal signs has been not been proactive; its enforcement is based only on complaints received. In other words, it has not systematically gone out and inspected all of the City rights of way for candidate signs, measuring each one and its distance from various points, to determine whether each of the rules for the signs has been met. Rather, it undertakes such efforts only when it receives a complaint alleging that signs had been posted illegally. Staff has been vigilant with regard to each and every complaint received. It has acted quickly, usually in the same day, to determine whether the allegedly illegal sign complies with the rules for political signs.

Staff can, if Council wishes, and if resources are redeployed, change its basic approach with regard to political signs from a complaint based system to one which inspects on a systematic basis all rights of way for violations. To operate proactively with regard to political signs, staff will have to inspect, count and measure each posted sign. Staff can count signs per median and can measure the height of each sign, the size of the sign supports, and the distance of signs from intersections and the ends of medians. Staff is reluctant to undertake that work, mainly because it anticipates that doing so, and doing so fairly, will be an enormous amount of work. It will constitute new duties, not currently performed. To perform them fairly, staff will have to inspect religiously throughout the period signs are permitted.

2. *Staff Removal and Destruction of Illegal Signs.* When staff responds to a complaint and finds an illegal sign, it has been careful *not* to remove that sign itself. Concerned about allegations of political favoritism, staff has kept its involvement as limited as possible. Instead of removing an illegal sign, staff has historically contacted the offending candidate's office and required the

candidate's staff to remove the sign immediately. In fact, this process has worked very well; staff can report a very high degree of compliance. In the rare case that a sign was not removed immediately, a second phone contact would succeed in solving the matter. Staff has found the method successful, mainly because candidates are highly motivated to correct visible violations of the City's laws that are part of the public information available about them.

Staff can change its approach as to the removal of illegal signs, and could actually remove any illegal signs. Staff is authorized now to remove any illegal signs but is required to impound them unless they are only of *de minimus* value, in which case they may dispose of them. Staff's experience is that almost all of the political signs fit within that category of having a small monetary value. Most are cardboard and attached to small wooden or metal stakes. To cover all political signs, staff can include language to address this aspect of enforcement in the text amendment, stating that political signs will be considered of little monetary value, and that staff has the duty to remove and destroy illegal signs.

Thorough enforcement, including removal and destruction of signs, could mean extensive record keeping requirements for zoning inspectors. Even if staff simply removes and destroys any illegal signs, it would ordinarily take steps to be able to defend itself against the inevitable allegations of unfair treatment for political purposes, favoritism of one candidate over another, and purposefully incomplete checking of certain candidate's signs. Staff will need to record the location of the sign in detail if it finds too many signs in a median or ones too close to an intersection or the end of a median. The only way to reasonably do that is for staff to draw a picture of the intersection, median or other location, indicating the type of infraction and giving the relevant details, such as measurements and location of additional signs for the same candidate. If there are more than a few problem signs, the work could become quite time consuming. Even if staff does an excellent job of memorializing all data on illegal signs, unless staff also records the details of each and every *legal* sign, and it does not propose to do that, it may not be able to answer all allegations of unfair treatment. The administrative complexity of increased enforcement efforts needs to be balanced against the cost of resources to do the work and the benefit Council perceives will result from such work.

Staff is not certain that heightened enforcement will cure the problems perceived with political signs. Most of the perceived problems with political signs relate to the vast number of signs and general unattractiveness of the city during campaign season. Planning staff typically receives fewer than five complaints each election cycle and the complaints usually relate to the number of total signs in the City, the number of one particular candidate's signs or the crowding of signs in one location. Similarly, the City receives complaints from candidates each time it removes and replaces signs after mowing the grassy areas in which they are placed and campaign offices are evidently besieged by general complaints about signs. These issues do not involve violations of the rules for political signs. In fact, staff believes, based on its investigations in the past, that the vast majority of political signs have been posted legally in the past.

Staff believes that Council's recommendations for limiting the number and location of signs will have a greater effect on the perceived and actual problems with campaign signs than increased

enforcement efforts, which could require additional staff or else will result in decreased enforcement of other zoning violations during the campaign season.

Staff recommends that Council direct staff to draft new zoning ordinance language incorporating the changes listed above regarding rules for political signs in the public rights of way and that these regulations be referred to the Planning Commission as a text amendment to the Zoning Ordinance. Staff does not recommend that the current approach to staff enforcement be changed. Finally, staff recommends that the following groups be consulted for their thoughts on the proposed changes for including in the docket material the text amendment: the local Democratic and Republican Party Committees and the Alexandria League of Women Voters.

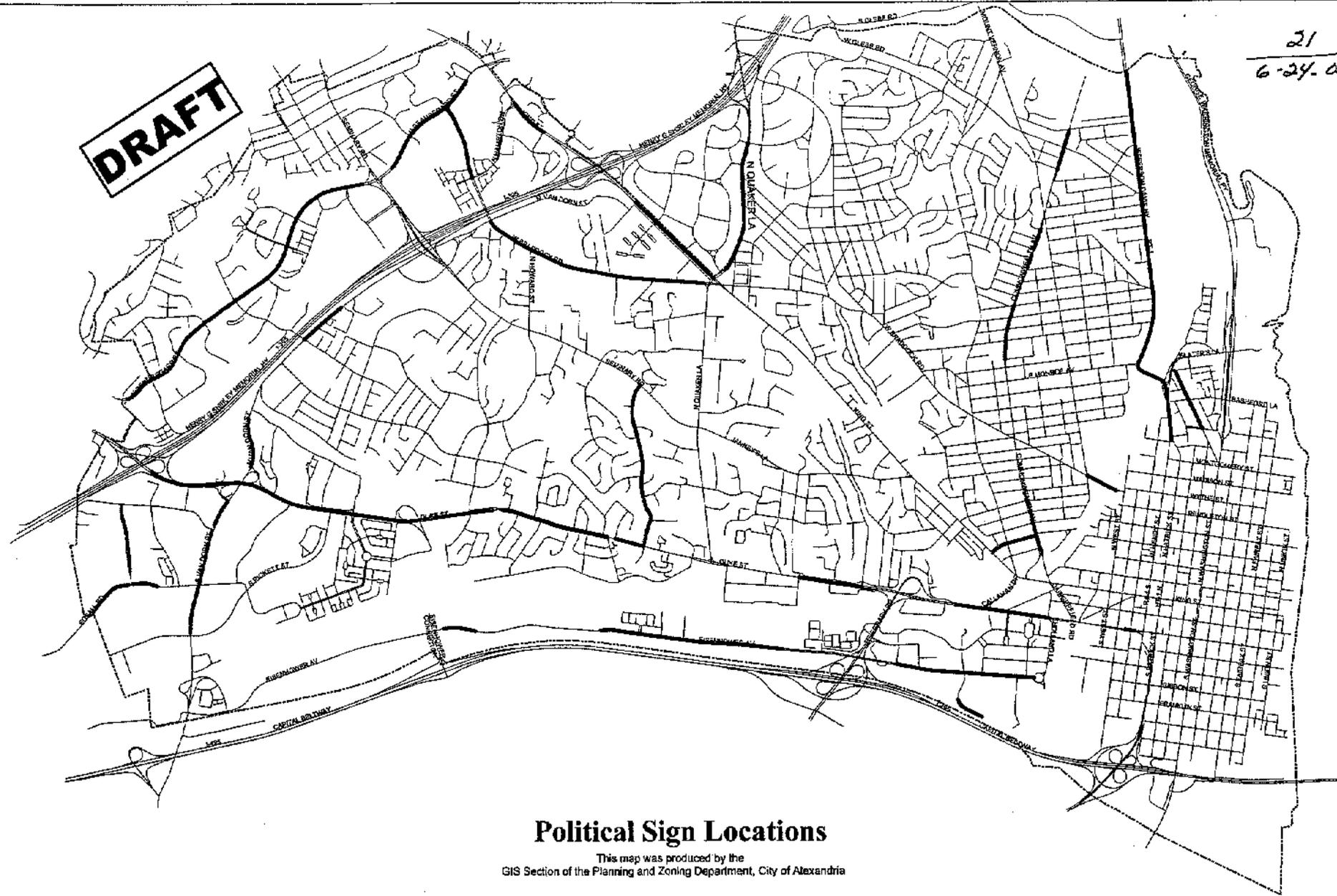
STAFF:

Eileen Fogarty, Director, Planning and Zoning
Barbara Ross, Planning and Zoning

ATTACHMENT: Political Sign Location Map

21
6-24-03

DRAFT



Political Sign Locations

This map was produced by the
GIS Section of the Planning and Zoning Department, City of Alexandria