

STAFF REPORT

Amendments to the Unified Development Ordinance

September 17, 2019 Town Council Meeting



Requested by Springfield Sign:

1. **Amendment to Sec. 8.7.1.A.13 *Menu Board* in order to increase the maximum sign area for a menu board from 32 square feet to 40 square feet with the condition that only one menu board sign be permitted if the larger sign area is used.**

8.7.1 Permitted Signs: Location, Size, and Number

A) *Conditions*

...

13) *Menu Board*

An accessory sign providing items and price associated with a drive-thru window or walk-up window and meets the conditions below:

Changeable menu boards shall be allowed provided that:

- a) Such signs shall not exceed ~~thirty-two (32)~~ square feet in area, **except as provided in subsection c. below**, and six (6) feet in height.
- b) **Except as provided in subsection c. below**, ~~Two (2)~~ signs shall be permitted per drive-through not to exceed ~~sixty-four (64)~~ combined square feet.
- c) **One (1) menu board sign up to 40 square feet in area and six (6) feet in height shall be allowed, as opposed to two (2) menu board signs as referenced in subsections a. and b. above.**
- e) ~~d)~~ **d)** Such signs shall not be legible from a public right-of-way or adjacent property.
- e) ~~e)~~ **e)** Such signs may be internally and externally illuminated per Sec. 8.7.6.(B), *Sign Illumination*.
- e) ~~f)~~ **f)** Also subject to Sec. 8.7.4 *Sign Design and Color* and 8.7.5 *Master Sign Plan Requirement*.

PLANNING STAFF RECOMMENDATION:

Planning staff recommends denial of the proposed UDO amendment.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard these amendments at their September 9, 2019 meeting and recommended approval by a vote of 4-3. The Planning Board report to Town Council is attached.

APPLICATION INFORMATION

Application #: 2019-01
Fee Paid: \$600.00

Submittal Date: 8/1/2019
Check #: 73660

Hard Copy Submittal Requirements:

- One (1) copy of Amendment to the Unified Development Ordinance Application
- Amendment to the Unified Development Ordinance fee

Applicant Information

Applicant: Springfield Sign
Address: 4825 E Kearney St.
City: Springfield State: MO Zip: 65803
Phone: 417.862.2454 Email: loram@springfieldsign.com

The applicant does hereby make application and does petition the Town Council to amend the Unified Development Ordinance of the Town of Apex for the following: **(Attach additional sheets as necessary)**

UDO Section(s): 8.7.1.A.13 Menu Board Requirements
(Example: Section 5.2.7(D) Dimensional Standards for Accessory Structures, Corner Lot)

Proposed Change(s):
Please see attached

Describe how the proposed amendment(s) is compatible with existing uses surrounding the subject land.
Please see attached

What changed or changing conditions justify the passage of the UDO amendment(s)?
Please see attached

How will the proposed change(s) effect the natural environment?
Please see attached

APPLICATION INFORMATION

Application #: _____ Submittal Date: _____

Will the proposed amendment(s) provide a community need? yes no

If yes, please describe Please see attached

Will the proposed amendments provide an orderly development pattern?

Please see attached

Describe whether the proposed amendment(s) will be adequately served by public facilities.

Please see attached

Describe how the amendment is consistent with the 2030 Land Use Map.

Please see attached

I hereby acknowledge that proposed amendments to the Unified Development Ordinance is a matter of legislative discretion of the Town Council. As the applicant, I am responsible for presenting the proposed amendments to the Planning Board and Town Council respectively.

Lora Martinson
Signature

7/31/2019
Date

AGENT AUTHORIZATION FORM

Application #: _____

Submittal Date: _____

RCH Apex, LLC is the owner of the property for which the attached application is being submitted:

- Land Use Amendment
- Rezoning
- Site Plan
- Subdivision
- Variance
- Other: Amendment to the UDO

The property is located at: 1401 Kelly Rd. Apex, NC 27502

The agent for this project is: Springfield Sign

I am the owner of the property and will be acting as my own agent

Name: Springfield Sign - Mark Wessell/Lora Martinson


Address: 4825 E Kearney St. Springfield, MO 65803

Telephone Number: 417.862.2454

Fax Number: 417.862.1887

E-Mail Address: loram@springfieldsign.com

Signature(s) of Owner(s)


Jay Campbell
Type or print name

Type or print name

Type or print name

Attach additional sheets if there are additional owners.

***Owner of record as shown on the latest equalized assessment rolls of Wake County. (An option to purchase does not constitute ownership). If ownership has been recently transferred, a copy of the deed must accompany this authorization.**



SPRINGFIELD SIGN

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ADDRESS
4825 E Kearney St
Springfield, MO 65803

CONTACT US
800.845.9927
springfieldsign.com

Culver's of Apex, NC
1401 Kelly Rd.
Apex, NC 27502

UDO Amendment – Responses

Proposed Changes

Existing UDO section **8.7.1.A.13 Menu Board Requirements**

An accessory sign providing items and price associated with a drive-thru window or walk-up window and meets the conditions below:

Changeable menu boards shall be allowed provided that:

- a) Such signs shall not exceed thirty-two (32) square feet in area and six (6) feet in height.
- b) Two (2) signs shall be permitted per drive-through not to exceed sixty-four (64) combined square feet.
- c) Such signs shall not be legible from a public right-of-way or adjacent property.
- d) Such signs may be internally and externally illuminated per Sec.8.7.6(B), *Sign Illumination*.
- e) Also subject to Sec. 8.7.4. *Sign Design and Color* and 8.7.5 *Master Sign Plan Requirement*

Proposed Change to UDO section **8.7.1.A.13 Menu Board Requirements (shown in Blue and Bold)**

An accessory sign providing items and price associated with a drive-thru window or walk-up window and meets the conditions below:

Changeable menu boards shall be allowed provided that:

- a) Such signs shall not exceed thirty-two (32) square feet in area and six (6) feet in height.
- b) Two (2) signs shall be permitted per drive-through not to exceed sixty-four (64) combined square feet.
- c) Such signs shall not be legible from a public right-of-way or adjacent property.
- d) Such signs may be internally and externally illuminated per Sec.8.7.6(B), *Sign Illumination*.
- e) Also subject to Sec. 8.7.4. *Sign Design and Color* and 8.7.5 *Master Sign Plan Requirement*

f) Alternatively, one (1) menu board sign, as opposed to two (2) menu board signs (section b) would be allowed but sign shall not exceed forty (40) square feet in area and 6' in height.

Describe how the proposed amendment(s) is compatible with existing uses surrounding the subject land:

The proposed amendment in general does not alter the existing uses surrounding the subject land. If a single menu board is allowed, a positive effect is found in that there is a reduction of signage as well as that the overall sizing of such sign is smaller than otherwise allowed, both a positive effect.



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What changed or changing conditions justify the passage of the UDO amendment(s)?

In general, when a city has a vision for unified development, the goal and result often is to attract new opportunities (commercial, residential, recreational, and the like) to their community, from a commercial perspective this comes with many different branded/franchised entities across all walks of life. To answer the question here, the change is success and new opportunity that comes to town so-to-speak. The UDO is driven by the needs of the community as a whole and governing entities must quantify and define many aspects of development <codes> to be successful for, and to align to, their visions and goals. However, to the overall needs of the community (private citizens and businesses alike) some areas of any ordinance can be overly specific creating incompatibility or inflexible specifications, a somewhat "one-size-fits-all" limitation. The specific amendment proposed herein allows another "flexible" solution while actually having a side benefit of limiting the number and sizing of this particular type of sign (menu board). Menu boards in general are as unique as each and every business is, this simple and minor amendment allows for one more way for the next unique business to fit in.

How will the proposed change(s) effect the natural environment?

In general, I suspect that most people find that a proliferation of signs is distracting from the natural environment, so to that point, having this amendment option available, the reduction of quantity and sizing positively impacts this point of view and the natural environment, additionally with smaller signs less light "pollution" is at hand during the evening hours.

Will the proposed amendment(s) provide a community need?

Yes, as stated above a more flexible UDO is of value to all members of the community. Additionally, and specifically from a Culver's (petitioner's) point of view, hardships are reduced and specific limitations of not having a brand standard menu board are alleviated, some of these hardships/issues are:

- (a) The entire Culver's system (approximately 700 locations) is based upon one menu board and only one option is available to franchisees as described herein.
- (b) Without the brand standard menu board this location would be incompatible and not cohesive with franchising standards, point of purchase (POP) information available and marketing ties-ins such as TV and radio broadcast.
- (c) In general, items would have to be eliminated from the menu board display, the POP panels are standard throughout the entire system and custom panels are not available. A custom size menu board cabinet is not available.
- (d) Sales for any eliminated product would be significantly and negatively impacted.
- (e) Lower sales volumes create higher per piece purchase costs for the consumer and is harmful from a cost-of-living point of view for the general public.
- (f) Increased costs, especially those not similarly experienced by competitors, leads to less competitive selling and could ultimately compromise the integrity of the business model.



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(g) Of the items that would not be able to be displayed, salads would be one. This is also a detriment to the general health of the public, it is well known that there are many arguments on the limited availability for quality and health balanced meals for the general public, this would add to that general concern and negative pressure.

(h) The efficient operation of the drive-thru is impacted as marketing messages and general consumer education/understanding with respect to menu board items are not being aligned, creating longer times for order placement and increasing the amount of time to utilize the drive-thru ordering system and therefore often times creating congestion and lane back-up.

Will the proposed amendment(s) provide an orderly development pattern?

Yes.

Describe whether the proposed amendment(s) will be adequately served by public facilities.

From this regard, there are no changes associated with the approval of the proposed amendment change.

Describe how the amendment(s) is consistent with the 2030 Land Use Map.

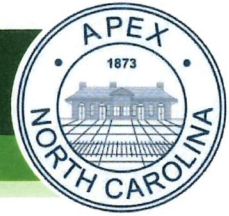
There are no changes associated with the approval of the amendment as proposed.

***Color information is included, black and white copies of this response may not convey the information needed.*

I think when this is looked at objectively, we satisfy the standards required for an UDO Amendment request and that the proposed amendment will be found to be consistent with the spirit, purpose and intent of the sign ordinances governing Apex while offering some new advantages. I have over 30+ years of experience and have sat on a lot of local/national review committees with the specific purpose of modification or development of codes and ordinances for unified development. This proposal is consistent with many other communities we have been involved in. I truly thank you for your insight and time to this issue, thanks as always.

AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE

Town of Apex, North Carolina



AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE APPLICATION: Applications are due by 12:00 pm on the first business day of each month.

AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE FEE: \$600.00

An amendment to the text of the Unified Development Ordinance may be proposed by the Town Council, the Planning Board, the Board of Adjustment, the Planning Director, by the owner, or any other person having a recognized interest in the land for which a development is proposed, or their authorized agent.

Standards:

The advisability of amending the text of the Unified Development Ordinance is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or disapprove proposed amendments to the text of the Unified Development Ordinance, the Town Council shall consider the following factors:

1. *Compatible with surrounding uses.* Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land.
2. *Changed conditions.* Whether and the extent to which there are changed conditions that require an amendment.
3. *Effect on natural environment.* Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
4. *Community need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.
5. *Development patterns.* Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning.
6. *Public facilities.* Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).
7. *Consistency with 2030 Land Use Map.* Consistency with the 2030 Land Use Map.

MB-DT-46 CUSTOM EXTERIOR MENU BOARD

APEX, NC
1401 Kelly Road

Blue Outdoor Drive-Thru Menu Board

MB-DT-46-C

Standard Menu Board for Drive-Thru Lane

LED Internal Illumination

POP Graphic panels must be purchased separately

POPP-Out magnet access panels included for easy in & out of POP panels

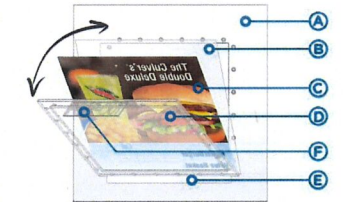
"-CS" option for 160mph coastal wind standards available

Locking rear access doors (4)

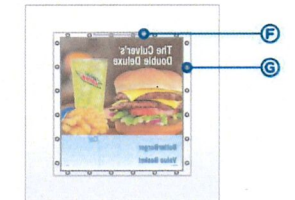


POPP-Out Point Of Purchase Panel System

INTERIOR VIEW OF MENU BOARD PANEL BEING REMOVED



PANEL IN PLACE



- A** - INSIDE BACK OF MENU BOARD FACE (ONLY ONE PANEL SHOWN FOR CLARITY)
- B** - FRONT PANEL IS ANTI-GLARE (CLEAR) FOR INCREASED VISIBILITY
- C** - POP PANEL - PRODUCT GRAPHIC
- D** - REAR PANEL FITTED WITH POPP-Out PANEL
- E** - SUPPORTING "TIP TRAY" FOR PANELS (SELF ALIGNING)
- F** - POPP-Out TAB HANDLE
- G** - PAIRED MAGNETIC "LATCH" (MAGNETS EMBEDDED IN POP-OUT PANEL & BACK OF MENU BOARD)

SALES PERSON: MARK WESSELL	DESIGNED BY: J WILSON	AO: 17914
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DATE CREATED / REVISION HISTORY	
12/12/18 - NEW	
3/22/19 - Permitting	

FILE PATH:
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MB-DT-46 CUSTOM EXTERIOR MENU BOARD

APEX, NC
1401 Kelly Road

Blue Outdoor Drive-Thru Menu Board

MB-DT-46-C

Standard Menu Board for Drive-Thru Lane

LED Internal Illumination

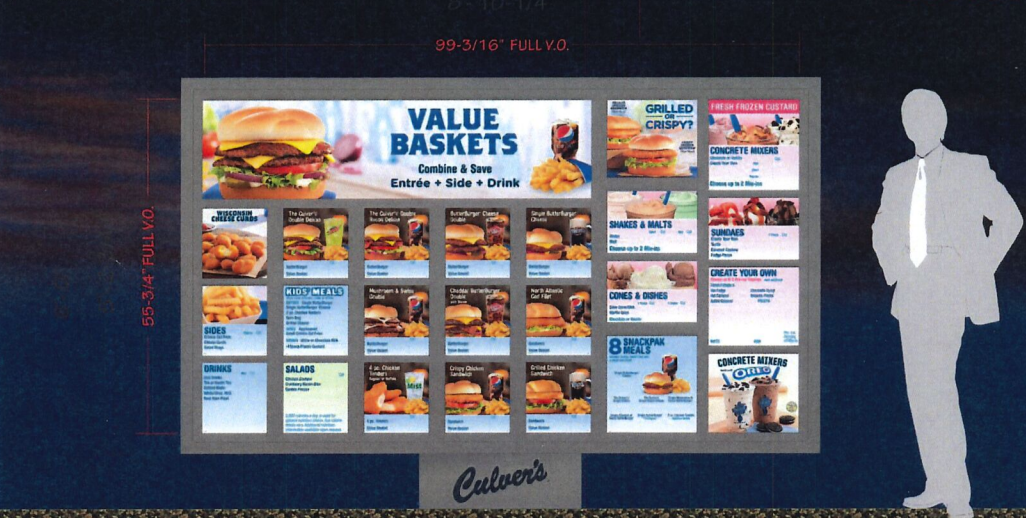
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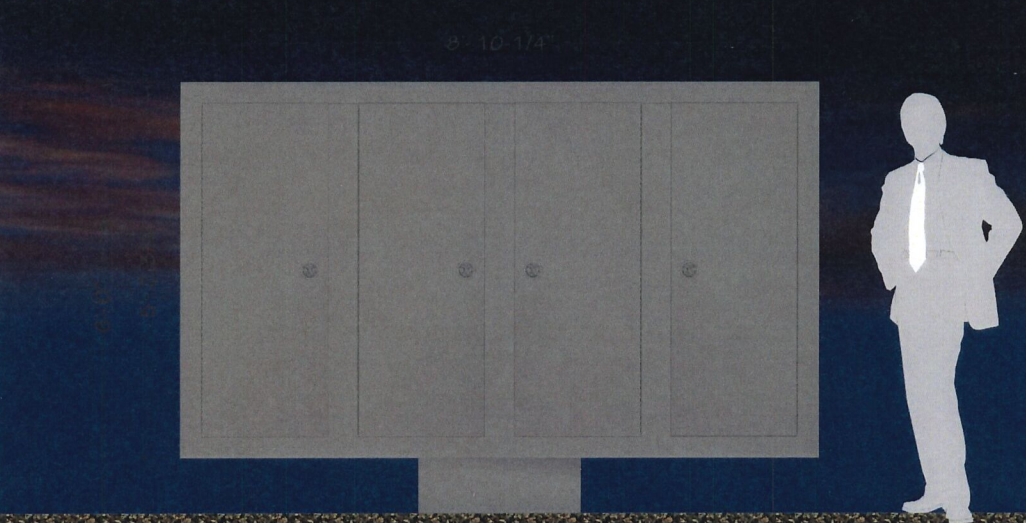
"-CS" option for 160mph coastal wind standards available

Locking rear access doors (4)

FRONT - NIGHT VIEW



REAR - NIGHT VIEW

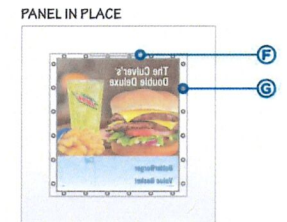
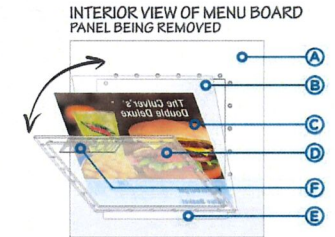


SCALE: 3/8" = 1'

*SCALE AND COLORS NOT REPRESENTATIVE FROM EMAIL ATTACHMENTS
*ALL MEASUREMENTS ARE APPROXIMATE

CUSTOM

POPP-Out Point Of Purchase Panel System



- A - INSIDE BACK OF MENU BOARD FACE (ONLY ONE PANEL SHOWN FOR CLARITY)
- B - FRONT PANEL IS ANTI-GLARE (CLEAR) FOR INCREASED VISIBILITY
- C - POP PANEL - PRODUCT GRAPHIC
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SALES PERSON: MARK WESSELL	DESIGNED BY: J WILSON	AQ: 17914
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DATE CREATED / REVISION HISTORY	
12/12/18 - NEW	
3/22/19 - Permitting	
4/29/19 - NIGHT VIEW	

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PLANNING BOARD REPORT TO TOWN COUNCIL

Unified Development Ordinance Amendments

September 9, 2019 Planning Board Meeting



Report Requirements:

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Planning Board Recommendation:

Motion: To recommend approval

Introduced by Planning Board member: Michael Marks

Seconded by Planning Board member: Reginald Skinner

- Approval of the proposed UDO amendment(s)
- Approval of the proposed UDO amendment(s) with the following conditions:

- Denial of the proposed UDO amendment(s)

With 4 Planning Board Member(s) voting "aye"
 With 3 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

Margo Bills, Tina Sherman, and Mark Steele agree with staff.

This report reflects the recommendation of the Planning Board, this the 9th day of September 2019.

Attest:

Margo Bills
 Margo Bills, Planning Board Chair

Dianne Khin
 Dianne Khin, Planning Director



TOWN OF APEX
POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARING**

AMENDMENTS TO THE
UNIFIED DEVELOPMENT
ORDINANCE (UDO)

Notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance:

Requested by Springfield Sign:

1. Amendments to Sec. 8.7.1.A.13 *Menu Board* in order to increase the maximum sign area for a menu board from 32 square feet to 40 square feet with the condition that only one menu board sign be permitted if the larger sign area is used.

Requested by Administration:

2. The addition of Sec. 2.1.9 *Environmental Advisory Board* in order to include provisions for the new Environmental Advisory Board in the Unified Development Ordinance.

Requested by Planning Staff:

3. Amendments to Sec. 8.3 *Off-Street Parking and Loading* in order to clarify that neither parking located under a building nor more than one level of structured parking counts toward the maximum parking calculation; increase the maximum parking allowed for Church or place of worship, Assembly hall nonprofit, and Assembly hall for-profit; and amend the minimum drive-aisle width in parking areas based on the angle and design of the parking lot.

~~4. Amendment to Sec. 2.3.14 *Vertebral Rights* in order to make updates based on recent changes to State law.~~

Public Hearing Location: Apex Town Hall
73 Hunter Street, Apex, North Carolina
Council Chambers, 2nd Floor

Town Council Public Hearing Date and Time: September 17, 2019 7:00 PM

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Planning Director

Published Dates: August 27-September 17, 2019



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

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~~4. Amendment to Sec. 2.3.14 *Vested Rights* in order to make updates based on recent changes to State law.~~

Public Hearing Location: Apex Town Hall
73 Hunter Street, Apex, North Carolina
Council Chambers, 2nd Floor

Town Council Public Hearing Date and Time: September 17, 2019 7:00 PM

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Planning Director

Published Dates: August 27-September 17, 2019