

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 2015-6: AMENDMENT TO ARTICLE 17: CONSTRUCTION SCREENING SIGNAGE AND IDENTIFICATION SIGNS IN BUSINESS AND INDUSTRIAL ZONES

REQUESTED BY: MIA Brookhaven, LLC

PROPOSED TEXT: (Text underlined indicates an addition to the existing Zoning Ordinance.)

ARTICLE 17: SIGN REGULATIONS

17-7(b) BASIC SIGN TYPES BY FUNCTION

(4) **BUSINESS SIGN** - A sign which directs attention to a business, profession, product, activity, or entertainment, sold or offered upon the premises where such sign is located, and may include information as for an identification sign.

(5) **CONSTRUCTION SIGN** - A temporary sign identifying the project name, the architect, engineer, contractor, financing company, material supplier, or others engaged in work on the construction site on which the sign is located. Leasing information, renderings and similar copy shall also be permitted.

(11) **IDENTIFICATION SIGN** - A sign which establishes the identity of a building or building complex by name or symbol or combines name, street address, and/or management and has no direct advertising value.

17-3(c) SIGN BY MEANS OF MOUNTING OR ERECTING

(14) CONSTRUCTION SCREENING SIGN - A temporary sign of fabric or mesh material attached to fencing surrounding a construction site to serve as a windbreak or privacy screen. Such signs may incorporate the information permitted for construction signs as defined in Sec. 17-3(a)(5). Construction screening signs may also include designs, artwork, logos, pictures, words and other graphic representations that do not advertise off-premise products or services. Such signs shall be in place only during construction and shall be removed simultaneously with the construction fence.

17-7(f) NEIGHBORHOOD BUSINESS ZONE (B-1) - Permitted signs may be free standing or wall mounted, as specified; signs shall be non-illuminated, indirectly illuminated, or internally illuminated unless specified otherwise. No free-standing sign shall exceed twenty (20) feet in height.

(9) In addition to the maximum number and square footage of allowable signs on individual lots, projects governed by a unified development plan of more than 5 acres with multiple lots and structures and a cohesive identity may have a maximum of three (3) identification signs located at access points or on corners of the property subject to the development plan, with the total square footage of all signs not to exceed one-hundred and fifty (150) square feet in area, and each individual sign not to exceed seventy-five (75) square feet in area.

(10) Construction screening signs. The sign face may contain or depict information, renderings, pictures, words, and other graphic representations related to the development or project, but shall be limited to twenty percent (20%) of the total square footage of the construction screen on all street frontages.

17-7(g) HIGHWAY SERVICE BUSINESS, WAREHOUSE/WHOLESALE, AND INDUSTRIAL ZONES (B-3, B-4, I-1, I-2) - Permitted signs may be free standing or wall mounted, as specified; signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated unless specified otherwise; no free-standing business sign shall exceed twenty-five (25) feet in height; no free-standing advertising sign shall exceed forty (40) feet in height.

(9) In addition to the maximum number and square footage of allowable signs on individual lots, projects governed by a unified development plan of more than 5 acres with multiple lots and structures and a

cohesive identity may have a maximum of three (3) identification signs located at access points or on corners of the property subject to the development plan, with the total square footage of all signs not to exceed one-hundred and fifty (150) square feet in area, and each individual sign not to exceed seventy-five (75) square feet in area.

(10) Construction screening signs. The sign face may contain or depict information, renderings, pictures, words, and other graphic representations related to the development or project, but shall be limited to twenty percent (20%) of the total square footage of the construction screen on all street frontages.

STAFF REVIEW:

The petitioner, MIA Brookhaven, LLC, has submitted an application for a Zoning Ordinance text amendment to Article 17 that is actually two separate requests. The first is to create a definition for “construction screening sign,” and permit this new type of sign in the Neighborhood Business (B-1), Highway Service Business (B-3), Wholesale and Warehouse Business (B-4), and Light and Heavy Industrial (I-1/I-2) zones. The second request is to permit project identification signage in these same zones in addition to any other business signs already permitted.

The petitioner seeks to permit a new method of mounting a construction sign in our community that currently does not exist in the Zoning Ordinance. Current sign regulations permit a “construction sign” up to 64 square feet in size for all office, business and industrial-zoned property. Based on the definition, a construction sign can include the project name, and contact information of the professionals or businesses involved in work on the construction site. The definition does not permit information about coming attractions or businesses, but does permit a graphic depiction of the building under construction. A site under construction may also utilize a “real estate sign,” which is also permitted for commercial sites up to 64 square feet in size. These signs are both defined as temporary, generally allowed as long as construction or sale/leasing is occurring for the site where the sign is located. These signs would be permitted by the Division of Building Inspection on a parcel basis, and both are regulated to permit one sign per street frontage. Zoning regulations for both of these sign types have been in place for decades, and have remained relatively unchanged since 1986.

The petitioner is requesting that temporary signage also be permitted on the face of any construction fencing that is installed on a construction site. Construction site fencing is often necessary for the site to remain secure. It typically surrounds an entire site, and also may provide a windbreak or additional privacy. Their proposal would permit the mesh or fabric material attached to a construction fence to be utilized (up to 20% of the face of the fence along all street frontages) to provide information above and beyond that permitted by a typical construction sign. The definition of “construction screening sign” proposes that such signs can also include “designs, artwork, logos, pictures, words and other graphic representations that do not advertise off-premise products or services.” The definition continues to limit such signage to the time frame associated with construction of a site.

While the staff understands the desire to permit more flexibility in how the construction sign information is displayed on a site (i.e., on a mesh fence screen rather than a plywood free-standing sign), the definition does not appear to quite get a to the goal which has been expressed by the petitioner, which is to advertise the coming businesses for the site. When a site remains vacant and under construction, the drafted text will still not permit signage to advertise what is not there, what is “off-premises” at that time. For instance, until a restaurant physically occupies a site, posting a sign with that restaurant’s name and/or logo would generally be considered off-premise advertising. In the staff’s opinion, the proposed definition is in need of further refinement.

The petitioner acknowledges limiting their proposed construction screening signs to only the B-1, B-3, B-4, I-1 and I-2 zones, thus eliminating a large portion of the community and the Expansion Area in whole. The staff believes limiting the size of the signage is more appropriate than narrowing it to only a few zones. A construction screening fence with mesh material may become widely used, and the staff can especially see the applicability in our more urban zones, such as the downtown business and mixed-use zones. The staff is also concerned about the potential square footage that could be granted with this type of sign as the petitioner has proposed that the face of the sign, would be calculated at based on the “total square footage of the construction screen on all street frontages.” Although temporary, the staff realizes that a construction site can be active for a long time, even years. A large site with multiple street frontages, such as the petitioner’s property on Nicholasville Road, could have signage the size of five billboards (aka advertising signs) along the frontage of their site. In the staff’s opinion, this amount of signage far exceeds what is typical, even for more urban communities across the United States, and is not necessary. Again, further refinement is needed for this proposal.

The second request that is part of this proposed text amendment to Article 17 of the Zoning Ordinance involves the ability to install signage above and beyond the typical business signage permitted for the B-1, B-3, B-4, I-1 & I-2 zones. The petitioner is proposing that for sites “with a unified development plan of more than five acres with multiple lots and structures and a cohesive identity,” that an additional three (3) identification signs be permitted on the site. These signs are proposed to be limited to no more than 150 square feet in total, with any one sign not to exceed 75 square feet in size.

While the staff appreciates the petitioner’s approach and attempt to limit the potential impact than their request would have, it is a request that the staff cannot support. The business and industrial zones already are the most permissive zones for signage, and now the petitioner is requesting even more square footage above and beyond those allowances. Any property owner has the ability to request transfer of signage from one location to another through an Administrative Appeal to the Board of Adjustment. The staff believes that this provides flexibility for property owners to adjust their signage based on their specific needs and/or their unique site. The Board does not, however, have the ability to transfer signage when a business has already utilized their allotment of signage as prescribed in the Zoning Ordinance. This maintains a reasonable and appropriate approach to manage signage.

The petitioner indicated that they modeled their proposal after regulations permitting “project entrance identification signs” in the P-1 zone for Professional Office Projects; however, these regulations are for developments that are 10 acres in size, and only permit 32 square feet per sign, with a limit of two per entrance. While the petitioner proposes a limit of three per site, the signs could be up to 75 square feet in size, more than twice what is permitted in the P-1 zone. It is important to note that free-standing signs in the P-1 zone are heavily restricted by Article 17, as well.

In addition, the staff is concerned about the community aesthetic and the possible negative impact that additional signage could have for the main thoroughfares in Lexington. The amount of sign clutter should be considered for reduction, not increase. These proposed regulations also could permit confusing signage for both a “unified development” and a single business on one parcel without any distance between them. These issues lead the staff to conclude that this proposal is excessive and does not meet the intent of the sign regulations, as stated in Article 17-1.

The Staff Recommends: **Postponement** of the text amendment related to construction screening signs, for the following reasons:

1. The petitioner’s proposal to permit a new way to display construction sign information on a mesh or fabric material attached to the construction site fence has merit, although the definition and proposed size allowances need significant modification in order to be acceptable.
2. The petitioner’s proposal to permit 20% of the fence to be utilized as a sign has the potential to be far greater than any other type of sign in Lexington-Fayette County, even in excess of multiple billboards (aka advertising signs).

The Staff Recommends: **Disapproval** of the text amendment related to additional identification signs, for the following reasons:

1. The proposed text amendment to permit additional identification signs above and beyond those already permitted in the B-1, B-3, B-4, I-1 and I-2 zones will not further the intent of Article 17: Sign Regulations, which aims to promote legitimate signage needs without unduly distracting from the overall aesthetics of the community, which reduces intrusions, which is not unduly distracting to the motoring public and which promotes a harmonious and pleasing community image.
2. The proposal to increase sign square footage within the most permissive zones for signage (B-1, B-2, B-4, I-1 and I-2) is not necessary, given the Board of Adjustment’s ability to transfer signage from one location or from one sign to another.

TLW/BJR/WLS

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