

AN ORDINANCE CREATING ARTICLE 17-11(i)(6) OF THE ZONING ORDINANCE TO ALLOW DIGITAL (ELECTRONIC MESSAGE DISPLAY) MARQUEE SIGNS IN THE LEXINGTON CENTER BUSINESS (B-2B) ZONE. (BIG PICTURE VENTURES, LLC).

WHEREAS, the Lexington-Fayette Urban County Planning Commission considered and adopted a text amendment to Article 17-11, creating Article 17-11(i)(6) of the zoning ordinance to allow digital (electronic message display) marquee signs in the Lexington Center Business (B-2B) zone. The Planning Commission did recommend approval of the staff alternative text by a vote of 6-3; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation of the Planning Commission is attached hereto and incorporated by reference herein;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 17-11(i)(6) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby created as follows:

Section 17-11(i)(6)

In conjunction with an indoor theater, one marquee, not to exceed thirty (30) square feet per theater, with a maximum of three-hundred (300) square feet; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum sign clearance of eight (8) feet. Marquee signs may utilize electronic message display systems, only if the sign complies with the following additional requirements:

a) Image: Sign must be static and there shall be no moving or scrolling messages, special effects, or animations.

b) Location: The sign shall not interfere with, imitate, or resemble an official traffic sign, signal, or traffic control device. ii. The sign shall not be located directly adjacent to, or directly across public right-of-way or a private road, from a residential zone.

c) Duration of message: The sign shall remain static for a period of not less eight (8) seconds. The transition from one (1) message or image to the next shall be direct and immediate.

d) Luminance: Between sunrise and sunset, the maximum luminance shall be five thousand (5,000) nits, and between sunset and sunrise, the maximum luminance shall be five hundred (500) nits. Sunrise and sunset shall be determined by the National Oceanic and Atmospheric Administration (NOAA), US Department of Commerce, for Lexington-Fayette Urban County. The sign must be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's luminance.

e) The marquee sign shall not display messages or be illuminated when the use is closed.

Section 2 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: August 30, 2022



MAYOR

ATTEST:



Clerk of Urban County Council

PUBLISHED: September 6, 2022-1t

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Recd by _____
Date: _____


**RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY**

IN RE: **PLN-ZOTA-22-00001: AMENDMENT TO ARTICLE 17: SIGNAGE REGULATIONS TO ALLOW A DIGITAL MARQUEE (ELECTRONIC MESSAGE DISPLAY) –**
petition for a Zoning Ordinance text amendment to Article 17: Signage Regulations to allow digital (electronic message display) marquee signs in the Lexington Center Business (B-2B) Zone.

Having considered the above matter on **April 28, 2022** and continued to **June 23, 2022**, at a Public Hearings and having voted **6-3** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL of the Amended Staff Alternative Text** for this matter for the following reasons:

1. The proposed staff alternative text amendment allows for the expansion of the use of electronic message display systems within the Lexington Center Business (B-2B) zone to allow an increase in signage opportunity, while also complementing the surrounding land use and can help promote the surrounding attractions
2. The proposed staff alternative text amendment provides greater limitations that prevent the creation of influences adverse or would negatively impact the overall health, safety, and welfare of the Lexington community and visitors to the Urban County.

ATTEST: This 29th day of July, 2022.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by **Richard Murphy, attorney.**

OBJECTORS

- Amy Clark
- None

VOTES WERE AS FOLLOWS:

AYES: (6) Barksdale, Bell, Davis, de Movellan, Nicol, and Pohl
NAYS: (3) Michler, Penn, Worth
ABSENT: (2) Forester, Meyer
ABSTAINED: (0)

FINAL REPORT

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DISQUALIFIED: (0)

Motion for **Approval** of **PLN-ZOTA-22-00001** carried.

Enclosures: Application
 Justification
 Staff Reports
 Planning Commission Recommended Text
 Applicable excerpts of minutes of above meetings

GENERAL INFORMATION - Zoning Ordinance Text Amendment Application

1. **APPLICANT INFORMATION:**

Name: Big Picture Ventures, LLC

Address: 300 E. Main Street, Ste. 800

City, State, Zip Code: Lexington, KY 40507

2. **ATTORNEY (Or Other Representative) INFORMATION:**

Name: Richard Murphy

Address: 250 W. Main Street

City, State, Zip Code: Lexington, KY 40507

Phone Number: 859-233-9811

3. **REQUESTED TEXT CHANGE:** Date of Pre-application Conference: 12/21/2021

Zoning Ordinance 17-11(i)(6) Specific text change proposed:

In conjunction with an indoor theater facility, one marquee per street frontage, maximum of two, shall be allowed in addition to the other signs permitted in this zone as follows: The marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. The marquee shall not exceed a total of 40 (forty) square feet per screen (not including any screen smaller than 10 feet by 16 feet). The marquee may utilize a digital display, provided that there shall be no moving or scrolling messages, and provided that messages may be changed no more frequently than every five (5) seconds. No digital marquees shall be located directly adjacent to, or directly across the street from a residential zone.

4. **DESCRIBE THE JUSTIFICATION FOR MAKING THIS CHANGE: (Use attachment if necessary.)**

See attached letter of justification.

MURPHY & CLENDENEN, PLLC

ATTORNEYS AT LAW

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RICHARD V. MURPHY

CHRISTOPHER M. CLENDENEN

January 3, 2022

Members of the Lexington-Fayette Urban
County Planning Commission
200 East Main Street
Lexington, KY 40507

Re: Proposed text amendment

Dear Members of the Planning Commission:

I represent Big Picture Ventures, LLC, doing business as Krikorian Theaters.

Krikorian Theaters is requesting your approval of a text amendment to the Lexington Center Business (B-2B) zone to allow digital marquees in conjunction with indoor theater facilities.

Krikorian Theaters operates the LexLive entertainment center at the corner of High Street and South Broadway, across from the Lexington Civic Center (Central Bank Center) and Rupp Arena. As a movie theater complex, it needs to have the ability to inform convention goers, tourists and local residents of the movies and events that are occurring at the center. It is complimentary to the Civic Center and other downtown venues.

We are requesting to be allowed to use digital marquees. Digital technology is already in use downtown at the Opera House, City Center and University of Kentucky on South Limestone Street. It will be utilized in the future on the remodeled Civic Center (Central Bank Center) and Rupp Arena. The digital technology is a modern version of the traditional marquee.

Marquees are already allowed for movie theaters in the B-1 and B-3 zone. In those zones, marquees may be 24 square feet per theater screen, plus 24 feet of attraction board per theater screen. We are requesting to be allowed 40 square feet per screen, without any attraction board. Our proposal will not allow any moving or scrolling messages, and will require that the messages may be changed no more frequently than every five seconds. Also, no digital marquees could be located directly adjacent to, or directly across the street from a residential zone.

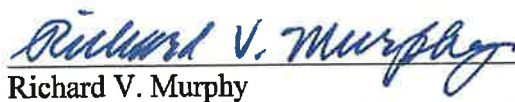
The signs for this center are essential to its success. A good portion of its patronage is from out of town, attending convention sessions at the Civic Center, or looking for entertainment options after attending events at other downtown venues. The signs are designed to create a sense of place and downtown vibrancy in the center of Lexington.

George Krikorian has designed 23 other theater complexes. Our proposal is in keeping with his other complexes, and other theaters nationally. The center is privately financed; there has been no public tax increment financing (TIFs) nor any other public financing. Proper signage is essential to the success of this facility.

As stated in the Comprehensive Plan, "Downtown is the urban epicenter of commerce and entertainment." It should include ground-level pedestrian engagement opportunities. (Page 273). This center provides the entertainment and quality of life opportunities that attract young and culturally diverse professionals to Lexington (Objective C.2.d.)

This proposal is complimentary to and will contribute to the success of both the Krikorian Theaters and the convention, hotel and hospitality industries downtown.

Thank you for your consideration of this text amendment.


Richard V. Murphy
Murphy & Clendenen, PLLC, attorneys for
Applicant



LEXINGTON

MAYOR LINDA GORTON

JIM DUNCAN
DIRECTOR
PLANNING

**SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT
AMENDMENT**

**PLN-ZOTA-22-00001: AMENDMENT TO ARTICLE 17: SIGNAGE REGULATIONS TO ALLOW
A DIGITAL MARQUEE (ELECTRONIC MESSAGE DISPLAY)**

APPLICANT: BIG PICTURE VENTURES, LLC

PROPOSED TEXT: (Note: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)

ARTICLE 17: SIGN REGULATIONS

Article 17-11(i)(6):

In conjunction with an indoor theater facility, one marquee per street frontage, maximum of two, shall be allowed in addition to the other signs permitted in this zone as follows: The marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. The marquee shall not exceed a total of 40 (forty) square feet per screen (not including any screen smaller than 10 feet by 16 feet). The marquee may utilize a digital display, provided that there shall be no moving or scrolling messages, and provided that messages may be changed no more frequently than every five (5) seconds. No digital marquees shall be located directly adjacent to, or directly across the street from a residential zone.

STAFF REVIEW

In the period following the May public hearing, the staff met with the applicant regarding their concerns with the staff alternative and continued to research best practice ordinances and professional publications regarding the utilization of electronic message display systems within urban localities. Whereas the staff's initial recommendation does provide a model ordinance that would allow for the use of such signage in association with indoor theaters, staff reviewed some of the concerns raised by the applicant and the Planning Commission during the initial public hearing.

During the hearing and the subsequent meetings, the applicant indicated that there were three areas of concern with the staff's alternative language: maximum size of the sign, oversight of the sign, and duration of the message or image. The staff reviewed the text and found that increasing the per theater size from twenty-four (24) to thirty (30) square feet was acceptable, as it allowed for a slight increase in the downtown areas, which are less likely to have large scale multiplexes or to use the bulletin board sign allowances that are permitted in other business zones. However, staff remained resolute on the maximum of three-hundred (300) feet due to concerns with the larger scale signs, the impact on the architecture of the area, and the potential nuisances produced by larger digital signage.



In response to the applicant's concern with the oversight or "sign-off" on proposed signage, staff has modified the language to match the state regulations of digital signage. This does not negate the importance of the Division of Traffic Engineering's review of such signs, which will occur during the permitting process, but clarifies the specific location aspects of the placement of signs.

Finally, the staff continued to review the appropriate duration of messages or images displayed utilizing an electronic message display system. While the forty-five (45) second duration allows for significant increases in the messaging and was associated with the light cycles of downtown traffic signals, staff further reviewed documentation of what has been determined to be appropriate in other communities and model ordinances. There is a significant range in the duration that communities have determined to be most appropriate. At the base level for many communities, the timing has been set at eight (8) seconds. This is the typical time range attributed to digital signage associated with areas of high rates of speed, including highways and interstates. Within the Lexington-Fayette Urban County Zoning Ordinance, a duration limit of fifteen (15) seconds has been established for stadiums within the Highway Service Business (B-3) zone. The B-3 zone is intended to provide for retail and other uses, which are necessary to the economic vitality of the community but may be inappropriate in other zones. The zone is intended to be located along higher intensity roadways with higher rates of speed, ranging from 35 mph to 55 mph. The downtown streets of Lexington, specifically the areas within the B-2, B-2A and B-2B zones, are meant to both carry the appropriate vehicular traffic, but are also meant to be pedestrian centric. Within Lexington, the base speed limit is 25 mph unless otherwise indicated. It is staff's opinion that any increased use of electronic message display systems should be considered in light of the urban context and the slower downtown speeds. This determination is supported by documentation provided by the United States Sign Council (USSC) Foundation and the American Planning Association. Staff has found that a reduction of the original duration time of an image or message from forty-five (45) seconds to twenty (20) seconds allows for proper detection, review, and then eye movement away from the message for motorists in a complex roadway system, like those found in Lexington's downtown areas. While any increase in messaging of signage can result in inattentiveness and distraction of drivers, staff believes that a twenty (20) second duration will allow for safe mobility patterns to occur.

Staff recommends the following amended staff alternative:

17-11(i)(6) In conjunction with an indoor theater, one marquee, not to exceed ~~twenty-four (24)~~ ~~thirty (30)~~ square feet per theater, with a maximum of three-hundred (300) square feet; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum sign clearance of eight (8) feet. Marquee signs may utilize electronic message display systems, only if the sign complies with the following additional requirements:

- a) Image: Sign must be static and there shall be no moving or scrolling messages, special effects, or animations.
- b) Location:
 - i. The sign shall not conflict with the operation of traffic lights, shall not have blinking, and the location shall be agreed to by the Division of Traffic Engineering; The sign shall not interfere with, imitate, or resemble an official traffic sign, signal, or traffic control device.
 - ii. The sign shall not be located directly adjacent to, or directly across public right-of-way or a private road, from a residential zone.

