



**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:**

The applicant, Big Picture Ventures, LLC, has filed a 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. Within their letter of justification the applicant indicates that, as a movie theater complex, they would like to have the ability to inform convention goers, tourists and local residents of the movies and events that are occurring at the complex. The applicant opines that the signage is complimentary to the Civic Center and other downtown venues. The applicant cites different locations near the downtown areas that currently utilize digital signage, including the Opera House, City Center and the University of Kentucky on South Limestone Street. It is important to note that the South Limestone Street electronic message display is not located within a zone that allows this form of signage, nor is the signage governed by local regulations.

Electronic message display systems are defined within the Zoning Ordinance as a sign with copy or images which includes, but is not limited to reflective disc, direct illumination, rotating veins, light emitting diodes (L.E.D.s), or liquid crystal diodes (L.C.D.s), and is controlled by means of a central computer or video control system and which has no audible sound (Article 17-8(o)). This form of signage is allowable in the Highway Service Business (B-3), Downtown Business (B-2), Downtown Frame Business (B-2A), and Lexington Center Business (B-2B) zones. The regulation of the size and operation of the electronic message display system form varies based on the context and form of development or land use with which they are associated.



An electronic message display system within the B-3 zone is allowable as part of a permitted free-standing or wall-mounted billboard or sign for an indoor or outdoor stadium or arena having a permanent seating capacity in excess of five thousand (5,000) persons for athletic and cultural events. Within this zone the electronic message display system cannot exceed fifty percent (50%) of the total sign area of the permitted sign, and no moving or scrolling messages are permitted. Messages displayed may be changed not more frequently than every fifteen (15) seconds (Article 17-11(g)(7)).

Within the B-2 and the B-2A zones, electronic message display systems are allowable in addition to the other permitted signs. These allowable signs include: a wall-mounted electronic message display center boards for civic centers, which contain exhibition halls and an arena for athletic and cultural events; for hotels and motels containing conference centers and restaurants; for television and radio system signal distribution centers and studios; and for banks, securities and commodities brokers, credit institutions, savings and loans, and investment companies. The total surface area shall not exceed eighty (80) square feet per sign. One electronic message display center shall be permitted per street front, with a maximum of two signs (Article 17-11(h)(7)).

Within the B-2B zone, electronic message display systems are allowable in addition to the other signs permitted in this zone. Four (4) wall-mounted electronic message display system signs are permitted for civic centers, which contain exhibition halls and an arena for athletic and cultural events. Two (2) such signs, not exceeding two hundred (200) square feet, are permitted, and two (2) additional signs may also be erected, not exceeding fifty (50) square feet each. Electronic message display system signs may be mounted on the wall of the civic center or any structure having a common wall with the civic center (Article 17-11(i)(2)).

With the development or incorporation of new forms of signage, it is necessary to maintain consistency with the established regulations, which allows for consistent application across the community, while also establishing new language that reflects best practice focused on the protection of the health, safety and welfare of our community. By blending the two, there is a continuum of community character, while also allowing for the incorporation of new technologies. The applicant proposed language that is focused on the reduction of negative light impacts on residential development, by including the restriction on adjacency to residential zoning. Additionally, the applicant proposed language that is representative of established regulations, including the description of the marquee, the restriction on the special effects (moving pictures, scrolling messages, etc.), and the inclusion of an amount of time that a single image must be displayed before a transition to another image or message. While these aspects are important, staff sees deficiencies in the proposed text amendment language that not only lead to inconsistencies between the established Ordinance, but do not adequately incorporate best practices in the regulation of electronic message display systems (digital signage).

Due to these concerns, staff has generated alternative text that would allow for the incorporation of electronic message display systems for movie theaters in the B-2B zone, while also providing the best possible consistency with the Ordinance and protecting the health, safety, and welfare of the Lexington community and visitors. The staff proposes the following alternative language:



17-11(i)(6) In conjunction with an indoor theater, one marquee, not to exceed twenty-four (24) 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 clearance of eight (8) feet. Marquee signs may utilize electronic message display systems, inly 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;
  - 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 than forty-five (45) 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.

The proposed staff alternative represents greater consistency with the current size requirements for marquee signs and the size for each theater. This recommends twenty-four feet per theater and removes any discussion of “screens” that are not associated within a theater environment. The association with the theater is essential, as the marquee is directly tied to the theatrical elements of the use, rather than an associated restaurant or sports bar. Additionally, the staff recommends a maximum of 300 square feet, which allows for adequate signage without dominating the structure.

In addition to maintaining consistency with the Zoning Ordinance, the staff is recommending the inclusion of text that governs the image, location, duration, luminance, and hours of operation of the signage. The proposed limitations on image, location, and duration are focused on ensuring that there be no distractions to those viewing the sign while traveling in the public right-of-way. Moving, scrolling, or other special effects displayed on signage can draw focus to the signage and can distract motorists, leading to potentially dangerous situations, especially in a high pedestrian area in the downtown. While duration or hold time is variable throughout different communities, the general standard is tied to the speeds at which vehicles are moving through space. Typical highway standards recommend the duration between changing images be five to eight seconds, which allows a driver to view a single image, or message. For Lexington, the duration for the changing of an image in the Highway Service Business (B-3) zone is currently 15 seconds. Due to the shorter block lengths, the high amount of controlled intersections (stop lights), and the slower speeds in the downtown areas, it is important to increase the timespan between shifting images or messages. In consultation with the Division of Engineering, staff found that the typical timespan for a full cycle of a signalized



intersection is 90 seconds. Staff recommends that an image or message be held for a duration of 45 seconds before shifting to a new image. The proposed limitation to image, location and duration of the displayed electronic image or message is supported by national standards.

The luminance, or intensity of light, of the sign recommended by the staff has been established by the United States Sign Council (USSC) Foundation as best practice. The proposed luminance allows for legibility of the sign based on the impact of the sun. A nit value is the measurement of luminance and can be measured either with a dedicated tool or a downloaded application on a mobile device. These measurements have been established in many other communities' Zoning Ordinances who have incorporated this form of signage.

The recommended provision that the digital marquee or electronic message display sign not display messages or be illuminated when the use is closed is directly tied to the impact that such signage illumination may have on surrounding development. While there is a provision that the signage not be adjacent to residential zoning, the B-2, B-2A, and B-2B zones all include residential land uses and hotel land uses. The consistent changing of images or messages throughout the night can be detrimental to the neighboring properties and can negatively affect the Lexington community and visitors.

While electronic message display systems are not appropriate in all areas of the Urban County, they have been determined to be appropriate in the most intensely developed portions of the downtown areas. The B-2B zone is intended to ensure compatible land uses, preservation of existing attractions compatible with the Lexington Convention Center, while encouraging new uses necessary to the proper development of the Downtown area. The permitted land uses in the zone are intended to have a logical relation to the Lexington Center and to the downtown core, should promote tourism, should promote the economic health of the community, should provide for an aesthetically pleasing environment, and should prevent the creation of influences adverse to the prospering of the Lexington Center and the Downtown area.

The staff alternative is focused on allowing for an increase in signage opportunity, as requested by the applicant, while also complementing the surrounding land use helping to promote the surrounding attractions in the area. Whereas previous legislation discussed some of the impacts of electronic message display systems, the proposed staff alternative provides 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.

**The Staff Recommends: Approval of the staff alternative text** to the Zoning Ordinance, 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.

HBB/TLW  
4/7/22  
Planning Services/Staff Reports/ZOTA/2020/PLN-ZOTA-21-00001 Staff Report.doc

