

**B. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS**

1. **ZOTA 2015-6: AMENDMENT TO ARTICLE 17: CONSTRUCTION SCREENING SIGNAGE & IDENTIFICATION SIGNS IN BUSINESS & INDUSTRIAL ZONES** – an amended Zoning Ordinance text amendment to permit up to four identification signs to be placed on large commercial or industrial developments.

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.

(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.

**17-7(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.

(10) Identification signs, only on projects governed by a unified development plan and exceeding four (4) acres. One (1) identification sign shall be permitted per frontage along a public street. Such signs shall not exceed ten (10) feet in height and one hundred (100) square feet in area, and the total square footage of each identification sign shall be counted towards the maximum amount of business signage available for the lot. Identification signs shall be located at least fifty (50) feet away from any freestanding business signs.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Disapproval, 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.

Staff Presentation: Ms. Wade began the staff's presentation by noting that a supplemental staff report had been distributed to the Planning Commission members prior to the start of this hearing. She said that this text amendment involves a request to amend Article 17 in order to allow project identification signage and other signage in the B-3, B-4, I-1, and I-2 zones. The Commission considered the first part of this application, pertaining to construction screening signage, on June 25, 2015.

Ms. Wade explained that identification signs are defined in the Zoning Ordinance as "a sign which establishes the identity of a building or a building complex by name or symbol, or combines name, street address, and/or management, and has no direct advertising value." Such signs are listed in the Zoning Ordinance in terms of identifying subdivisions, shopping centers, and projects for a whole area, rather than just one particular business. Professional office projects, mixed-use projects, and shopping centers all typically have identification signs. Ms. Wade displayed several photographs of examples of this type of signage.

Ms. Wade stated that the staff reviewed the petitioner's proposal, which was filed in May, and made a recommendation of disapproval to the Zoning Committee in June. At that time, the staff noted several concerns about the proposed text. Firstly, the staff was concerned about the petitioner's request for additional signage, since the business zones have the most permissive signage regulations. The petitioner has the ability to shift signage from one type of sign to another as part of an appeal to the Board of Adjustment, which the staff felt was the appropriate avenue to move signage in order to create an identification sign for their project. Ms. Wade said that the petitioner indicated, in their original application, that they utilized the "project entrance identification sign" in the P-1 zone as a model for the proposed text. She noted that a Professional Office Project is required to be 10 acres in size, and is permitted 32 square feet per sign, limited to two signs per entrance. The petitioner's original application and revised text, however, proposed much more, up to 100 square feet of signage per sign. The staff was also concerned about the community aesthetic, and the possibility of signage clutter in areas where identification and business signs could be located close together.



Ms. Wade said that, since the Zoning Committee meeting, the staff reviewed the Zoning Ordinance further, and rethought their justification that the Board of Adjustment (BOA) could grant an administrative appeal for transfer of signage for the petitioner. Because an identification sign is not permitted at all in the business zones, the BOA would not be able to grant such an appeal. Also since the Zoning Committee meeting, the petitioner has revised their proposed text three times, and has been willing to work with the staff. However, there are still two areas of disagreement between the staff and the petitioner. Ms. Wade explained that the staff remains concerned about the petitioner's revised text, primarily because it does not line up with the rest of Article 17. Referring to a staff exhibit distributed to the Commission members prior to the start of the hearing, she said that the petitioner originally proposed to add identification signage to Article 17 in the B-3, B-4, I-1 and I-2 zones, as well as the B-1 zone, for up to four signs per project, at 60 square feet in size each. At the end of May, the petitioner revised their draft text to request three identification signs, with an increase up to 75 square feet per sign, with a cap of 150 square feet. In July, the petitioner submitted another revision, with no cap on the amount of signage, and a request to increase the size of signs to 100 square feet. Later in July, the petitioner submitted a fourth revision, which proposed one identification sign per street frontage, with a limit of 100 square feet per sign.

Ms. Wade said that the staff's two remaining concerns are the number of signs proposed, and the size. She noted that the staff had asked why the petitioner was no longer proposing a cap to the number of signs, since allowing one sign per street frontage could result in multiple signs; the petitioner indicated that they felt that was appropriate, since they agreed to allow only one sign per frontage. The staff is also concerned that the petitioner's request has increased from the original 60 square feet per sign, to 100 square feet. Referring to Staff Exhibit #2, Ms. Wade explained that the existing regulations for identification signs permit such signs for Professional Office Projects, which are required to be 10 acres in size. Professional Office Projects are permitted one large identification sign, up to 100 square feet, with entrance signs up to 32 square feet in size. Community shopping centers, which are required to be between three and 10 acres in size, are allowed one identification sign per street frontage, with a maximum of two signs, of up to 75 square feet in size. The regulations are the same for the Mixed-Use zones.

Ms. Wade stated that the staff is recommending the following Staff Alternative Text, which addresses those two concerns:

**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.

**Amend Article 17-7(g) to tie regulations together for free-standing business signs and identification signs:**

- (1) Business signs shall be permitted as follows:
  - (a) The total surface area of business signs shall not exceed two (2) square feet per linear foot of street or building frontage, whichever is greater; or thirty-two (32) square feet, whichever is greater.
  - (b) One free-standing business sign per lot shall be permitted per street frontage, with a maximum of two (2) free-standing signs; not exceeding seventy-five (75) square feet per sign; minimum setback shall be one-half (½) the setback required for a principal building, but not less than ten (10) feet in any case. Free-standing business signs shall be located at least fifty (50) feet away from any identification signs allowed under Section 17-7(g)(10) herein.

*No change to remaining sub-sections*

**Amend Article 17-7(g) to add new sub-section 10 for identification signs:**

(10) Identification signs, only for projects governed by a unified development plan and exceeding four (4) acres in size; one (1) identification sign shall be permitted per public street frontage, with a maximum of three (3) signs; not exceeding seventy-five (75) square feet per sign; with a maximum height of ten (10) feet. The total square footage of each identification sign shall be counted towards the maximum amount of business signage available for the lot allowed under Section 17-7(g)(1)(a) above. Identification signs shall be located at least fifty (50) feet away from any freestanding business signs.

Ms. Wade said that the proposed changes to Article 17-7(g), related to business signs, were included because the staff believes it is important to note those spacing requirements for both a business owner locating within a commercial development, and the project developer.

Ms. Wade noted that the 60% increase in allowable signage, from the 60 square feet originally proposed to the 100 square feet currently requested, seems excessive to the staff. The staff is recommending a maximum size of 75 square feet, because it is consistent with other project identification signs for projects of similar size. The Zoning Ordinance has a tiered ap-



proach with regard to signage, and the staff believes that the same type of development should have the same type of signage in order to not create an incentive for developers to rezone to B-3 in order to develop a shopping center. Ms. Wade said that the staff is recommending approval of the Staff Alternative Text, for the following reasons:

1. The proposed text amendment will allow for a unified project on at least four acres of land to provide an identification sign, thereby creating a distinct sense of place for their project or a destination. Identification signage would benefit the customers and businesses within these areas of the community.
2. The community's signage has been regulated in a tiered approach so that the projects on multiple acres of land are permitted an identification sign to compliment individual business signage and create a sense of place. These larger projects (such as shopping centers, professional office projects or mixed-use projects) are permitted such identification signs and a unified project in the B-3, B-4, I-1 or I-2 zones would likewise benefit from these signs. The alternative text is consistent with the existing tiered approach of *Article 17: Sign Regulations*.

Commission Question: Mr. Drake asked Ms. Wade to estimate the sizes of the signs included in the photographs she displayed previously. Ms. Wade answered that it would be difficult to tell, since the photographs were not to any certain scale. She noted, however, that shopping center signs in Lexington-Fayette County, such as are in place at many local commercial developments, are typically 75 square feet in size. Mr. Sallee added that newer shopping centers likely have signs that meet those requirements, while older shopping centers such as Fayette Mall have older, non-compliant signage. Ms. Wade noted that, under the proposed Staff Alternative Text, a sign ten feet tall could be more than seven feet wide.

Petitioner Representation: Jacob Walbourn, attorney, was present representing the petitioner. He stated that the staff and the petitioner are close to an agreement on the proposed text. He said that the petitioner's commercial project is located on Nicholasville Road, in an area with a great deal of competition in terms of signage from other developments, and they are trying to find a way to create a "signature development." The petitioner contends that identification signs will help to create that sense of place.

Mr. Walbourn said that he appreciated the staff's willingness to work closely with the petitioner through multiple drafts of the proposed text. Referring to the staff exhibit, he explained that the first two drafts of the text were modeled closely on the provisions for Professional Office Projects, which are allowed to have identification signs in addition to other signage. The petitioner originally proposed that identification signs not count toward the overall signage total, but the staff indicated that they could not recommend approval of that proposal. The current proposed text would require that identification signage count as part of the overall signage allowed for the development. Mr. Walbourn noted that business identification signage is permitted in every zone in Lexington-Fayette County, except the zones proposed in this text amendment.

Mr. Walbourn stated, with regard to the staff's concerns about capping the allowable number of identification signs, that the petitioner's property has three frontages, so that the proposed cap would be acceptable to them. However, Mr. Walbourn said that, considering this text amendment more globally, that it could be more effective to permit one sign per street frontage with no maximum number.

With regard to the staff's concerns about the size of signs, Mr. Walbourn said that business identification signs draw from a fixed amount of allowable signage on a property. The petitioner contends that, because of that fixed limit, increasing the allowable size of a business sign simply deploys signage in a different area, rather than increasing the overall signage on a property. The petitioner has also agreed to limit the height of an identification sign to 10 feet, which requires that any signage be large enough to be visible. Mr. Walbourn requested that the Planning Commission consider allowing up to 100 square feet of business identification signage, as the petitioner contends that size is more appropriate. He noted that business signage is more valuable than identification signage, since it can have advertising value, so the amount of identification signage should be self-limiting.

Commission Questions: Mr. Wilson stated that he appreciated the petitioner's willingness to work with the staff, but he believed that the petitioner should have been able to resolve these issues if they were truly "minor," as Mr. Walbourn contended. Mr. Walbourn responded that he did not believe the staff would be willing to agree to 100 square feet of signage, but the petitioner believes that amount is appropriate.

Mr. Penn asked if the identification signs would be changed as the petitioner's project develops. Mr. Walbourn answered that the identification signs would be permanent, and would be similar in appearance to a subdivision identification sign.

Mr. Drake asked if the petitioner had experience, in other instances, where a 75 square-foot sign was inadequate. Mr. Walbourn responded that the petitioner originally proposed 60 square feet; however, as the petitioner's architect created renderings of their proposed identification signs, they realized that the signs they desired would need to be approximately 92 square feet in size.

Mr. Wilson asked if the 75 square-foot size would be a deal-breaker for the petitioner. Mr. Walbourn responded that, if the Commission chooses to recommend approval of the Staff Alternative Text, the petitioner will work within that regulation, but they would prefer to be able to install larger identification signs.

Mr. Owens said that the petitioner's original proposal was for 240 square feet of identification signage; the current proposal is



for 300 square feet, which does not indicate that any compromise was made. Mr. Walbourn noted that the petitioner originally proposed 240 square feet of **additional** signage, which the staff referred to as "double-dipping" with regard to signage. The petitioner now contends that, if they are required to sacrifice business signage, they would like additional latitude to install signage according to the size provided in their architectural renderings.

**Staff Rebuttal:** Ms. Wade stated, with regard to Mr. Walbourn's contention that identification signage is allowed in all of the other zones, that it may be allowed, but very limited in size. Most identification signs that are permitted are required to be smaller than 75 square feet in size, with only a project of at least 10 acres being permitted to have the larger identification signs. The petitioner's project is four acres in size, so the staff believes that the amount of signage should be proportional, in order to discourage the practice of rezoning properties to B-3 only in order to increase allowable signage. Ms. Wade added that the staff must also be concerned about future projects, and whether 100 square feet of identification signage is appropriate in those instances, and in zones other than B-3 as well. The staff believes that it would be appropriate, and consistent, to allow 75 square feet of identification signage for all business uses.

**Commission Question:** Mr. Drake stated that he had experience with real estate sales in the past, and he had difficulty fitting sufficient information on 75 square-foot signs, preferring instead to use 96 to 100 square feet. He said that he was confused about the exceptions that exist currently, and whether developments going forward with limited signage will be at a disadvantage. Ms. Wade answered that larger shopping centers, over 10 acres in size, can have identification signs up to 150 square feet in size. She added that larger projects can have more signage because they have greater street frontage. Ms. Wade noted that the staff does not believe that limiting signage to 75 square feet in size would put developments at a disadvantage, since that would require signage to be more proportional to the actual size of a project.

**Citizen Comment:** There were no citizens present to comment on this request.

**Action:** A motion was made by Mr. Wilson, seconded by Mr. Penn, and carried 9-0 (Drake abstained; Brewer and Plumlee absent) to approve the Staff Alternative Text as provided in the supplemental staff report, for the reasons provided by staff.

\* - Denotes date by which Commission must either approve or disapprove request.