

## Minutes

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting at City Hall, 4800 Town Center Drive, at 6:00 P.M., on Monday, July 18, 2011. Mayor Peggy Dunn presided.

**Councilmembers present:** James Azeltine, Debra Filla, Carrie Rezac, Gary Bussing, Lou Rasmussen, Andrew Osman, Jim Rawlings, and Julie Cain

**Councilmembers absent:** None

**Staff present:** Patty Bennett, City Attorney  
Joe Johnson, Public Works Director  
Richard Coleman, Comm. Dev. Director  
Mark Klein, Planning Official  
Franki Shearer, Assistant City Attorney  
Deb Harper, City Clerk  
Pam Gregory, Assistant City Clerk

**Others Present:** Bill Fowler, Hicks Fowler Architects  
Duane Hicks, Hicks Fowler Architects

## **Discuss revisions to the Leawood Development Ordinance [LDO] Sign Regulations**

Mayor Dunn called the meeting to order at 6:05 P.M. Introductions were made by those present.

### **Opening Remarks – Community Development Director Richard Coleman**

Earlier this year, two sign applications were submitted that did not meet the Leawood Development Ordinance [LDO] requirements; IMAX and US Bank. The Governing Body asked staff to review the sign regulations in reference to sub-tenant and building signs. In their review, they addressed the General Retail District [SD-CR] and the Neighborhood Retail District [SD-NCR] and plan to review the entire Sign Ordinance at a later date.

### **Presentation – Planning Official Mark Klein**

The current ordinance requirements in the SD-CR and SD-NCR Districts allow a maximum of 2 signs per building in a single-tenant building and 2 signs per tenant in a multi-tenant building. Staff has run into issues with sub-tenant signage because the LDO does not address this. They consider a sub-tenant as a tenant that is located within a primary tenant that does not have their own entrance; however, they want to advertise on the building. One example is US Bank, located inside Price Chopper at the Ranchmart Shopping Center. There are already several signs on the building advertising a number of services they offer. In order to have the US Bank sign, they would need to discard their remaining signs; however, they are not willing to do so.

Currently, size limitations are restricted to 5% of one façade and a maximum of 200 square feet. In the case of multi-tenant buildings, staff interprets this to be 5% of the individual tenant space. Some sign requests that have come through have relied upon a deviation. If sign criteria has been approved by the Governing Body for a particular development, the Governing Body is allowed to deviate to whatever that approved sign criteria is. The current ordinance prohibits signs which identify products, descriptors, or any other specific information about the tenant beyond the name of the tenant. Without some type of descriptor, sometimes it's difficult to know what the business actually is. With regards to the IMAX, located inside AMC Theatres, staff considers this as a sign advertising a product or service. Both US Bank and IMAX are located in the SD-CR District. Staff requested direction from the Governing Body on the following:

- Number of signs per building, per building façade, and per tenant
- Maximum size of signs (as a percentage of the façade)
- Distinguish between primary tenants, sub-tenants, and whether the same rules should apply to each
- Distinguish between multi-tenant buildings and single-tenant buildings and whether the same rules should apply to each

For the larger buildings, they generally don't have issues with the 5% size limitation of one façade and the maximum 200 square feet; however, issues begin with the single and multi-tenant buildings. Currently, there are legal non-conforming sub-tenants in existence that were approved some time ago. They frequently have issues with signs that have information beyond the name of the tenant, such as advertising products or services. They wanted clarification of what constitutes one sign, two signs, etc., if it contains multiple pieces of information. If the sign is altogether in one piece, they have considered it one single sign.

### **Defining Terms**

Sub-Tenant: Any tenant that is

- leasing or otherwise occupying a portion of floor area from a primary tenant, and
- whose floor area is less than that of the primary tenant, and
- which does not have its own public entrance separate from that of the primary tenant

Primary Tenant:

- Single Tenant Building - any tenant occupying 50% or more of the floor area of the building
- Multiple-Tenant Building - any tenant occupying at least 25,000 square feet of floor area or 50% or more of the total building floor area, whichever is less

Single Tenant Building:

- Any single building designed and constructed for and containing only one tenant

Multiple Tenant Building:

- Any single building designed and constructed for two or more tenants, each with separate public exterior entrances.

**Staff Recommendations – Regulations for Single-Tenant Buildings**

Single-Tenant Buildings greater than 25,000 square feet:

- Total of 4 wall signs per building, with no more than 2 per façade; 1 sub-tenant sign would be allowed in lieu of 1 wall sign
- Primary tenant wall signs shall not exceed 5% of the area of the façade
- Sub-tenant wall signs shall not exceed 3% of the area of the façade, and in no case shall they exceed the size of the primary tenant wall sign
- The sum of the area of all wall signs on a given building façade shall not exceed 5% of the building façade
- One monument sign is allowed in lieu of one of the 4 permitted wall signs; however, in no case shall the monument sign be used to advertise a sub-tenant

Single-Tenant Buildings less than 25,000 square feet:

- Signage for sub-tenants shall not be permitted
- Total of 3 wall signs allowed per building, with no more than 2 per façade
- One monument sign is allowed in lieu of one of the 3 permitted wall signs

Councilmember Cain was concerned with the language definition of sub-tenant - leasing “or otherwise occupying” a portion of floor area from a primary tenant. Mr. Klein responded it is the intent that they are a separate business from the primary tenant. Mayor Dunn thought the language may need further clarification.

Mr. Klein confirmed for Councilmember Bussing that to measure the façade of a multi-tenant building, they measure everything from the eve of the roof down.

Councilmember Filla wanted clarification of why they don’t consider it visual clutter for signs on a multi-tenant building if they have their own entrances; however, it is considered clutter when there are multiple signs on a primary tenant building, such as the Hy-Vee on State Line. Mayor Dunn noted the Hy-Vee signs are descriptors of what is inside. Mr. Klein clarified if this was a multi-tenant building, the “Hy-Vee” sign would not be there and each tenant space would be limited to 5% of the façade.

Councilmember Osman thought their focus should be on retail buildings over 25,000 square feet since they are generally the ones requesting sub-tenant signage. A bakery or floral shop is considered typical amenities of a grocery store; however, people should be made aware if a bank is located inside.

Mayor Dunn confirmed with Mr. Klein they removed the 200 square foot maximum sign area requirement because they felt the 5% rule would be sufficient.

Councilmember Rezac asked why they don’t just change the maximum to 8% as the total area for buildings greater than 25,000 square foot since it is 5% for the primary tenant and 3% for the sub-tenant. Mr. Klein thought by keeping the maximum of 5%, it would decrease the sign size.

Councilmember Azeltine confirmed with Mr. Klein that an applicant's legal name is verified through the Secretary of State's office. Mr. Azeltine felt when they use descriptors and not their trademark name, it is clutter. Mr. Klein responded some applicants are concerned with using their legal names because people won't know what type of business they are. Applicants will delay the application process to amend their name or do a d/b/a to include a descriptor.

Mr. Klein confirmed for Councilmember Rasmussen there is nothing in the LDO that prohibits a façade facing residential. Staff hadn't addressed this yet; these have been approved through a stipulation.

### **Staff Recommendations – Regulations for Multiple-Tenant Buildings**

Signage for Primary Tenants: (tenants with floor area exceeding 25,000 square feet)

- A total of 3 wall signs allowed per tenant space, with no more than 2 per façade
- Signs for the primary tenant shall not exceed 5% of the area of the tenant façade
- Signage for sub-tenants shall not exceed 3% of the area of the tenant façade and in no case shall they exceed the size of a primary tenant sign
- The sum of the area of all signs on the tenant façade shall not exceed 5% of the area of the tenant façade
- One monument sign is allowed in lieu of one of the 3 permitted wall signs; however, in no case shall the monument sign be used to advertise a sub-tenant

Mayor Dunn was concerned with allowing a monument sign and thought they should only approve these as an exception. Mr. Klein clarified the LDO allows 2 wall signs and states a monument sign "may" be approved in lieu of a wall sign.

Signage for Other Tenants whose floor area is less than 25,000 square feet:

- A total of 3 signs per tenant space is allowed, with no more than 1 per façade
- Monument signs are prohibited and not allowed in lieu of one of the permitted wall signs
- Sub-Tenant signage is not permitted

Mr. Klein clarified for Councilmember Rasmussen a façade facing one direction is considered one façade and under staff's recommendation, applicants are allowed one sign per façade. Signs on glass doors are considered window signage, which are allowed to be 5% of the window area.

Staff requested direction from the Governing Body on the following:

- The number of signs allowed on a single-tenant building greater than 25,000 square feet (proposing 4 with a maximum of 2 per façade)
- Further definition of a sub-tenant as opposed to a product or service
- Size limitation of signs for sub-tenants (proposing maximum of 3% of façade)

Mr. Klein commented legally, they wanted to stay clear of content based signs as much as possible. It's easier to regulate the number of signs, percentage and square footage allowed.

Mayor Dunn noted some individual developments have their own design criteria, such as One Nineteen, which allows 3 signs. This goes beyond what the LDO allows; however, the Governing Body approved it.

Councilmember Osman thought they could keep the sign regulations as they are; however, allow an applicant to apply for a deviation. Mr. Coleman was concerned with deviations of the sign content.

Mr. Klein confirmed for Councilmember Filla that under the proposed changes, AMC Theatres would be allowed to add "IMAX" to their signage if they are considered a sub-tenant. Staff was not sure if AMC was purchasing IMAX or if IMAX was in a lease agreement or partnership of AMC.

Councilmember Cain recommended they not increase the number of signs per building unless there is a true sub-tenant and then allow 1 additional sign, not to exceed the 3%. Mayor Dunn and Councilmembers Rasmussen and Rezac concurred. They didn't feel there was any reason to change what has been working effectively.

Councilmember Azeltine concurred; however, he felt applicants should be able to briefly describe what type of business they're offering; not a descriptor, but whether they are a boutique, café, etc.

Councilmembers Bussing agreed to this solution for IMAX; however, he was not in favor of this being the general solution for every building over 25,000 square feet because it could force business owners to incorporate their sub operations in order to have their signage. He didn't feel the City should determine the definition of a sub-tenant. Councilmember Filla concurred and felt they should be more concerned with the total number of letters and signage over a total percentage of square footage rather than focus on whether they are the primary or sub-tenant.

Mr. Klein thought they could leave the ordinance as is to allow 2 signs per building in a single-tenant building and 2 signs per tenant in a multi-tenant building and the Governing Body could grant deviations. There are limits to the deviations that the signage has to further the public's awareness of the product or service.

Mayor Dunn received consensus to leave the LDO sign regulations as is and allow a deviation process on a case-by-case basis.

There being no further business, the work session was adjourned at 7:29 P.M.

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Pam Gregory, Recording Assistant City Clerk