



PLANNING COMMISSION SYNOPSIS

September 25, 2014

CALL TO ORDER

Chairperson Nordstrom called the Planning Commission meeting to order at 6:00 p.m. in the City Council Chambers of the Bloomington Civic Plaza.

COMMISSIONERS PRESENT: Nordstrom, Willette, Fischer, Batterson, Goodrum

COMMISSIONERS ABSENT: Spiess, Bennett

STAFF PRESENT: Markegard, Fields, Schmidt, Farnham, Hiller

Chairperson Nordstrom led the attendees in the reciting of *The Pledge of Allegiance*.

ITEM 3

6:21 p.m.

CASE:	1000E-14
APPLICANT:	City of Bloomington
LOCATION:	Citywide
REQUEST:	City Code Amendments – City initiated amendments to Chapters 19 and 21 to include establishment of a master sign plan approval process and modification of Class VI Sign District provisions, definitions, and on site and off site sign provisions

SPEAKING FOR THE APPLICANT:

Jason Schmidt, Planner
Glen Markegard, Planning Manager

SPEAKING FROM THE PUBLIC:

Bill Griffith, Attorney representing MOAC Mall Holding LLC

PUBLIC HEARING DISCUSSION:

Schmidt stated Item 3 addresses City initiated sign code amendments. Item 4, heard after this item, is the privately initiated sign code amendments that were brought forward by the Mall of America (MOA). Both of these items were continued to tonight's meeting from the August 21, 2014 Planning Commission meeting.

Schmidt stated the MOA has requested to continue their privately initiated Code amendments to the November 6, 2014 Planning Commission meeting to allow the Planning Commission to focus solely on the City initiated ordinance amendments. Staff and the MOA have come to agreement on all but two issues, which will be described later in the presentation.

Schmidt summarized the code amendments including modifying definitions, revising sign standards, and creating a new master sign plan process. Revisions since the August 21 Planning Commission meeting include: changing the City Council review discretion from *sole* to *reasonable*, some minor revisions and amendments, removed reference to *public benefit*, changes to the Class VI sign district, and some reorganization in the master sign plan section, which included the relocation of the revenue

sharing section to the standards section of the Code. The MOA is in agreement with the above mentioned changes.

Schmidt stated the two main areas of disagreement include the standards used in determining qualifying tenant identification signs and the revenue sharing portion of the amendments. There are four criteria used in determining tenant's external signage: location, tenant size, sign size, and access criteria. Prior to the Bloomindale amendments, the four anchor buildings were the only tenants allowed exterior signage on the entire MOA site. In 2012, the Bloomingdale amendments allowed the junior anchors exterior signage and now the changes proposed in these amendments will allow exterior signage on the Phase 1C and Phase 2 buildings.

Schmidt explained the tenant size criteria for the existing MOA is proposed to be for retail tenants of 10,000 to 150,000 square feet and for restaurants having a minimum 5,000 square feet which will allow the MOA to possibly subdivide the remaining three anchors in a similar fashion as the Bloomingdale building in the future. The Phase 1C and Phase 2 MOA buildings will allow exterior signage for tenants and uses under 150,000 square feet.

Schmidt explained the sign size criteria for tenant's in the existing Mall space with ground floor entrances remains at the maximum of 40 percent of the façade area elevation and that any additional exterior signage be approved through the master sign plan. The MOA Phase 1C and Phase 2 building tenants would be restricted to a maximum of 10 percent of the façade area elevation and any additional signage be approved through the master sign plan.

Schmidt explained the standards limit exterior signage to tenants who have a ground level exterior public entrance or direct access to a skyway connecting to the parking ramps. Schmidt stated the MOA wants to allow tenant's with windows to have exterior signs. Schmidt explained the MOA has four tenants within the Phase 1C building that have 75 lineal feet of glazed façade and view the exterior of the MOA who wish to have exterior signage. The MOA is proposing that restaurants with a minimum of 5,000 square feet and retail with a minimum of 10,000 square feet that meet the glazed façade criteria be allowed exterior signage.

Schmidt stated that staff believes that tenants with exterior entrances should have identification signage, however, staff has believes that signs for tenants without public entrances could lead to a proliferation of signs and should only be allowed through the discretionary master sign plan review process.

Schmidt explained the second area of disagreement is revenue sharing. He explained that, as proposed, revenue sharing would only be required if a site were installing revenue-generating signs. Allowing revenue-generating signs on building exteriors is a major change for the City. Staff reviewed best practices and discovered that revenue sharing is commonly used for public art and entertainment to offset over commercialization. As was done in Denver, staff proposes that 15 percent of the gross revenue generated from the signs be used to fund public art, events, infrastructure and related uses within the South Loop District. This option is only one source to assist in the funding of arts in the district.

Schmidt stated in Case 1000E-14, staff is recommending approval of amendments to City Code Chapters 19 and 21 as listed in the staff report. He stated he is available for questions and comments from the Commission.

Goodrum asked for clarification from staff regarding whether allowing the proposed glazing criteria could potentially allow the MOA to get more signage than just the 4 tenants with the glazing mentioned in the Phase 1C building. Schmidt stated the MOA glazing language states that it only applies to MOA Phase 1C and Phase 2 buildings. Markegard added that any tenant would be able to add windows at any

time, triggering the ability to add exterior signs. Staff is proposing that such signs be allowed, but through the discretionary master sign plan review rather than being allowed by right as the Mall proposes.

Willette asked staff if this ordinance gets into changeable copy signs at all. Schmidt stated the proposed ordinance does not change any of the current duration standards (20 minute), but the proposed ordinance does address full motion signs that cannot be visible from a public street (signs inside the ring road).

Batterson asked staff if there is a limitation on the total number of signs that could be on any one of the Phase 1 facades. Schmidt stated there is not, rather the existing language in the ordinance allows the anchors 40 percent and that language is not being proposed to change and does not limit the number of signs allowed, just the 40 percent coverage. Schmidt used an example of a recently approved sign for LL Bean that was approved administratively.

Fischer asked for clarification from staff on the Phase 1C and Phase 2 buildings if more signage could be approved above the 10 percent through the master sign plan review process. Schmidt stated the applicant could seek flexibility through the master sign plan review process. Fischer asked for clarification on how the 15 percent revenue sharing process would work. Schmidt explained the process is discussed in the master sign plan development agreement.

Goodrum asked staff to clarify if the 15 percent is based on the lease revenue or the profits generated from the advertising. Schmidt stated the lease revenue the sign generates.

Willette asked if windows displaying merchandise qualify as a permanent sign. Schmidt stated that window displays are not considered permanent signs and are classified as art features.

Batterson asked for clarification on whether the revenue generating signs would be leased by the tenants within the MOA or by corporations. Schmidt stated the way the proposed standards are written, the advertisers would have to be tenants in and have products sold within the MOA and sponsorship is not included in that. Markegard added that the MOA has indicated that rights to use of some of the exterior signs may be incorporated into the leases of tenants. Others may be leased and signs on the parking ramp may be managed by a third party that would collect rent from advertisers. Batterson asked staff if a charitable organization such as The United Way was displayed on the sign, would the sign be exempt from revenue sharing. Markegard stated the Mall would only have to share revenue on public service announcements and non-profit advertising if those entities are leasing the sign.

Griffith stated he represents the MOA. In the last month his team has worked with staff and the meetings have been very productive. There have been a number of points of agreement and he appreciates your direction. He asked to clarify a point regarding revenue sharing signs on the parking ramps. He stated the revenue sharing signs that were being proposed through Branded Cities are no longer being considered at this time due to not being able to meet the 20 minute duration standard under the City Code. He stated those signs are not before you and he doesn't know if they will ever come back.

Griffith stated what we want to focus on is the differences between the City ordinance and the MOA ordinance. The two areas of disagreement are the MOA proposal for allowing exterior signs for tenant's with windows and the revenue sharing portion of the amendments. Griffith stated his client has voluntarily agreed to continue their item (Case 10000D-14) down the road so that it would be less confusing to the Commissioners and to the City Council when it comes forward. He stated he wanted to recap the reasons why the MOA is opposed to the revenue sharing concept. The first reason is that the primary driver for revenue sharing in the Denver Theater District and other districts is to activate the district and to create excitement within the district and that is something the MOA does today on its own

with a staff of 10 fulltime employees and 5 other additional staff that includes seasonal employees and interns. The MOA event staff already creates activation in the district as you may expect. The second reason is the MOA also provides a public benefit to the City by providing over \$100 million of fundraising within the property and in some cases outside the property. The third reason is that the MOA is actively working with staff in the South Loop District spending time and resources to talk on a cooperative basis about public art. There will be public art opportunities in both Phase 1C and throughout the South Loop District. Our view is that should occur on a voluntary basis and should not be tied in with signage and revenue generating advertising.

Griffith displayed graphics depicting renderings of the graphic display signs being proposed on Phase 1C. He stated there could potentially be some revenue generated from these signs, but not a lot. They will be used for tenant deals and are integral to the design of the building and will help attract higher level tenants. This is not the big program that was put forward some time ago with Branded Cities. This is really an exterior treatment that is consistent with first class retail throughout the country and the world. Griffith displayed a few photos of exterior expressions from The Galleria in Edina (Pottery Barn, Restoration Hardware, Arhaus) which gave examples of signs for tenants that do not have exterior accesses and with no master sign plan review. So what we are really asking for is exterior signs by right for first, second, and third level key tenant corners that would have significant window/glazing. New tenants demand this type of exterior expression in signage on the building. Griffith displayed a few floor plans depicting four future tenants of Phase 1C showing how the tenants would not be allowed exterior signage without the master sign plan review process, but would be allowed signage through the glazing proposal put forth by the MOA. Griffith summarized stating those are the two differences between the City initiated version and the MOA version (revenue sharing, and glazing criteria).

Fischer asked Griffith to comment on the desire of interior tenants to have exterior signage and the limitations that are needed. Griffith stated that within these proposed amendments including the MOA piece on glazing, we believe there are very few places other than those identified and discussed within the existing MOA and the Phase 1C building that would be eligible for any exterior signage.

Batterson asked Griffith to confirm that the parking structure/Branded Cities revenue sharing signs are not on the table with these sign amendments and that the MOA is not intending on doing those types of signs in the near future. Griffith confirmed and added that the reason for that is the standards require integration and we have had signals both from staff and from City Council that those types of signs did not meet the standards. Batterson asked Griffith to demonstrate on the MOA graphics provided which types of signs would or could be revenue sharing signs. Griffith stated the eight graphic signs on the new front door of the MOA in Phase 1C could be revenue sharing signs, or they could be part of a lease deal. Griffith added that their concern is the City may start auditing the MOA leases to see whether there is an element of revenue in providing those as an incentive to signing up a client or tenant. There may be no money changing hands, but if it is part of a lease deal is that suddenly an item to be audited. We do not think that is appropriate. We think that is on the private side of the line so to speak. Some of the signs could fit within the revenue sharing on-premise signs for advertising on-site.

Goodrum asked Griffith for clarification on whether all of the signage shown on the graphics today except for the four glazing requirement signs in Phase 1C would be allowed through administrative review and without any master sign plan review. Griffith stated no. The eight graphic display signs would need to be reviewed through the master sign plan process. For that reason, if these amendments are approved the MOA will be applying for the graphic display signs immediately after these amendments are approved. These graphic display signs are a significant departure from the current Code. We do not think the junior tenant signage (four glazing tenant signs on Phase 1C) is a huge departure from the Code and that is why we propose the glazing requirement so that they would not have to be approved through the master sign plan process.

Batterson asked Griffith to confirm, for clarification, the only two areas of disagreement between the City initiated version and the MOA initiated version is the revenue sharing component and whether approval of signs for interior tenants without access but with windows should be by staff or by the City Council as part of the discretionary master sign plan review. Griffith stated that is correct.

Public hearing closed via a motion.

Batterson stated he appreciates that after a month staff and the MOA were able to come back with this format and that they worked through all the differences between the two ordinance versions and were able to bring this back where there is a level of agreement on nearly everything with the exception of just the two areas for discretion or for decision to be made. Allowing signs for tenants with windows will open up the MOA to make it a little brighter and it is a wonderful thing. He stated the windows help open up the building and helps tell people what is inside. He stated it is a modest change and would be in support of allowing signs for tenants with windows to be approved by staff as proposed by the MOA. The revenue sharing piece is something I have a real hard time with because having someone go through your books is the wrong way to go. If the City wants to collect in some manner for revenue sharing signs it should be done in a different manner, perhaps by a fee or a tax. I will not support anything where the City is going in and looking at the rents and the agreements of the property owner. It reminds me of taxing people based on sales per square foot as opposed to the raw square footage. In my mind I am supportive of the amendments as proposed with the addition of the glazing requirement and at this point I would recommend we would just strike any language about revenue sharing out of this. If the time comes when a Branded Cities comes back and we have a major revenue piece coming in, revisit it again at that time. For now, I think we should get this done, let the MOA put up these nice signs and get moving with one of our major assets of Bloomington.

Fischer stated he agrees that the ability for tenants with windows to have exterior signs as proposed by the MOA seems appropriate and does not take away from the building or makes the building look too commercial. It looks like the MOA is trying to do a tasteful thing and upscale and a nice addition. I agree with Commissioner Batterson regarding the revenue sharing portion of the amendment being that at this point there does not appear to be a large portion which would or could be revenue sharing type signs. If at some point it becomes an issue it can be revisited at that time. The MOA has been very good about giving back to the community and hosting events and charitable events and the City is getting a pretty good bang for the buck there.

Goodrum stated he is pleased with the work both the applicant and the City have done to get to this point. He stated he is in support of the master sign plan process as it will be necessary to evaluate future signage and it should give the City the discretion it needs to review signage that does not meet the standards in the proposed ordinance.

Nordstrom asked the Commission for guidance on how to proceed.

Batterson stated he would be in support of staff's ordinance with the addition of the MOA proposal for allowing exterior signs for tenants with windows and the elimination of language regarding revenue sharing. Nordstrom asked for staff to comment.

Markegard stated Commissioner Batterson's remarks could be reflected in a motion. One thing to clarify on the revenue sharing portion of the ordinance is whether the Commission is against the revenue sharing language in the ordinance at this time or if a trigger should be incorporated into the language to allow for the issue to be revisited in the future when or if more of these types of signs are brought forward.

Batterson stated that from his perspective, he is not in favor of the City auditing the MOA books or such. I am not in favor of having any sort of trigger. He stated if a Branded Cities type of program is again brought forward by the MOA, then it would be time to revisit that type of signage. At that time I would hope the direction the City would go in would be to look at it like this is a new store or tax signs in a certain way to generate revenue for the City or to charge certain fees if revenue generating signs are put into place it needs to meet these codes and these are the costs you are going to bear for this type of sign to be installed. Additional real estate is how he is looking at it. He stated he believes the wisest way to do this is to strip the language regarding revenue sharing now and only address it if these major revenue generating signs are again proposed in the future.

Goodrum asked for clarification from staff on whether by removing the revenue share language from the proposed ordinance it would also be removing the intent of the City that any funds received through revenue sharing would be earmarked for public art in the South Loop District. Markegard stated that if the revenue sharing language were to be recommended for removal by the Commission, language regarding the use of shared funds would be removed as well. Goodrum asked for clarification on the glazing requirement and if the MOA language would allow the signage depicted in the graphics displayed by Griffith for the four tenants in the Phase 1C building. Markegard stated the issue is whether the signs for the four tenants identified by Griffith would be approved by staff with no discretion as proposed by the MOA or would be approved by the City Council subject to standards and within the discretionary master sign plan review process as proposed by staff. The concern staff has is less with the Phase 1C signs and more thinking ahead to Phase 2.

Nordstrom stated Case 10000E-14 will be heard at the November 3, 2014 City Council meeting.
[Moved to November 17 by City Council]

ACTIONS OF THE COMMISSION:

M/Fischer, S/Willette: To close the public hearing.. Motion carried 5-0.

M/Batterson, S/Fischer: In Case 10000E-14, I move to recommend approval of an ordinance amending City Code Chapters 19 and 21 as recommended by staff with Section 19.115 amended to incorporate the changes drafted in the email of September 17 of William Griffith to Jason Schmidt and Section 21.501.06 (f)(3) be removed. Motion carried 5-0.