



City of Seattle
Gregory J. Nickels, Mayor

Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3009729
Applicant Name: Plumb Sign for Lamb of God Lutheran Church
Address of Proposal: 12509 27th Avenue NE

SUMMARY OF PROPOSED ACTION

Land Use Application to allow 18 square foot identification and changing image sign with a five (5) foot wide by 2.25 foot high double faced changing image LED message center sign on existing poles for an Institution (church) in a multi-family zone.

The following approval is required:

Variance - to allow a changing image sign in a multi-family (MF) zone.
(SMC 23.55.020.B)

SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity

The Lamb of God Lutheran Church is located on a 29,554 square foot parcel three blocks west of Lake City Way NE along NE 125th Street. The Church property is zoned multi-family residential, Lowrise (L-3) on the lower (southern) two thirds and Lowrise (L-2) on the upper (northern) third of the site. Surrounding sites to the west, north and east are all zoned multi-

family residential and all have multi-family residential structures. Specifically, there is a 30 unit apartment east of 27th Av NE, townhouses to the north of the subject property and an eight unit apartment building to the west of the Church. There are two designated historic landmarks nearby; the Lake City Library is on the north-eastern corner of the block to the east of the Church (across 27th Av NE) and the Lake City School building is directly across from the Church, on the south side of NE 125th Street. The school building also located in a multi-family zone (L-2/L-3), is now privately owned and used as office space. A crosswalk once used by school children still exists approximately 60 feet west of the intersection of NE 125th Street and 27th Av NE, near the location of an existing identification and reader board sign for the Church.

The Church has 140 lineal feet of frontage on NE 125th Street and 210 lineal feet of frontage on 27th Av NE. Vehicular access to the subject site is provided via 27th Ave NE and the Church parking lot also serves as a park and ride lot for commuters. NE 125th Street is an arterial and 27th Ave. N E. is a residential street. NE 125th Street carries a substantial volume of traffic to and from Lake City Way NE (which is three (3) blocks east of the subject site).

There is an existing 24 square foot, double sided, back lit, identification and (manually changed) “reader board” sign. The six foot high sign is located along NE 125th Street approximately 60 feet west from the intersection of NE 125th Street and 27th Ave. N E and 15 feet back from the south property line and is oriented east / west.

Proposal

The applicant proposes to reface and refurbish an existing 24 sq. ft., double-faced illuminated sign. The existing sign is a combined identification and reader board sign that starts approximately two feet above existing grade to total height of approximately six feet. The proposed sign would continue to function as an identification and message board sign with a two foot high by six foot wide portion of the sign becoming an electronic changing image (“LED message center”) sign. The size of the proposed electronic message board (approximately 11 square feet) is smaller than the reader board portion of the existing signage and is less than the 24 square feet allowed for a identification sign in the zone. Because the area of the identification signage will be reduced and incorporated into the border of the new electronic message board, the message board will be a foot higher and the overall sign height will be lowered by a foot.

The Church provides worship services, religious classes, preschool and other social services on site. The applicant reports that the current sign “has limited space” and is “an obstacle to further growth” and that new signage is needed for “more complete messaging, and more vis[ability] to the public ...”. Specifications provided for the proposed sign describe an “LED” message center “capable of generating text, graphics and simple animation.”

Public Comments

Two public comment letters were received during the public comment period which ended on February 11, 2009. Concerns were raised about driver distractions and the impact to the safety of pedestrians using the crosswalk located next to the proposed sign and about the impact to residential units from increased illumination.

ANALYSIS - VARIANCES

Sign Code

The City of Seattle regulates signs pursuant to Chapter 23.55 of the Land Use Code that has been upheld as constitutional by the federal courts. The structure of the Sign Code is to ban all signs based on the City's interest in reducing driver distraction and in promoting aesthetics appropriate to each zone. As a result, different sizes and types of signs are allowed in different zones. In particular, Federal Highway administration studies show that signs with moving messages are more distracting to drivers than stationary signs and moving images are the most distracting of all. For this reason, in addition to aesthetic reasons, the City regulates these types of sign by zone.

Standards for signs are graduated in strictness from more strict in residential zones to less strict in commercial zones to least strict in industrial zones, similar to the restrictions on the types of uses that are allowed in the respective zones.

Institutions, including churches that meet development standards are permitted uses in multi-family zones. As a permitted non-residential use, a church may have "one electric or non-illuminated double faced identifying wall or ground sign on each street frontage not to exceed twenty-four square feet of area per sign face." The code prohibits "flashing, changing image or message board signs" in Single Family and Multifamily zones (SMC 23.55.020 and 23.55.022). A changing image sign is also not allowed in Neighborhood Commercial 1 and 2 zones.

Definitions

A **reader board sign** is defined in the City of Seattle Sign Regulation Handbook (2005) as "A sign that displays identification, public service or commercial messages by using characters that are changed or arranged in a manual fashion."

An **electric sign** is defined in the City of Seattle Sign Regulation Handbook (2005) as "any sign containing electrical wiring but not including signs illuminated by an exterior light source."

A **message board sign** is defined in the City of Seattle Sign Regulation Handbook (2005) as "an electric sign which has a reader board for the display of information, such as time and/or temperature, or public service or commercial messages, which can be changed through the turning on and off of different combination of light bulbs within the display area."

A **changing-image sign** is defined in the City of Seattle Sign Regulation Handbook (2005) as "a sign, including a sign using a video display method, which changes its message or background by means of electrical, kinetic, solar or mechanical energy, not including message board signs. A video display method is a method of display characterized by real-time, full-motion imagery of at least television quality."

NIT or Niteres; Latin, to shine. A measure of luminance with each unit being equal to 1 candle per square meter.

Variance Analysis

Pursuant to SMC 23.40.020 C, variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below are found to exist. Analysis of the variance requested follows each statement of the required facts and conditions.

- 1. Because of the unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of the Land Use Code would deprive the property the rights and privileges enjoyed by other properties in the same zone or vicinity;***

The Applicant explained that the current sign “is not highly visible to passing motorists ...” and “is therefore an obstacle to further growth”. The proposed sign represents a 25 percent reduction in the overall size of the existing sign and further limiting the sign to a monochrome display, allows for a sign most similar to identification signs allowed for other institutions in residential zones however, there are no unusual conditions applicable to the site that would meet the intent of this criteria.

Further, the strict application of the Land Use Code (SMC 23.55.022.B) would not allow a sign with an electronically controlled changing message (which the applicant states is needed for enhanced visibility due to its location and surroundings) for any other property in the same zone or vicinity. Application of the code would not “deprive the property of rights and privileges enjoyed by other properties...”.

- 2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

The proposed changing image sign would be located on NE 125th Street, on existing poles. The height will be lowered approximately one foot and the face of the sign will be decreased by approximately 16 square feet. The location (approximately 60 feet from the intersection of NE 125th Street and 27th Av NE and 15 ft. back from the property line) is not proposed to change. The proposed height is intended for viewing from vehicles traveling east and west on the arterial. The identification signage will be incorporated into the (upper and lower) border of the proposed electronic message board.

Signage is regulated in order to provide for public safety, to encourage the design of signs that attract and invite rather than demand the public's attention and to promote signs which are harmonious with their surroundings (SMC 23.55.001). The type of institution signage permitted by code (SMC23.55.022.D.5) is intended to allow for identification of the institution while integrating the permitted institutional use into the residential character of a neighborhood by limiting the size, type and location of the signage.

Electronic signs have been developed that allow for changing the lettering on a sign through a computer connection inside a building.

The Church currently has a message board sign in the same area as proposed sign. The existing sign is manually operated, back lit with fluorescent lighting and manually changeable black lettering, typical of older reader board signs. It should be noted that the existing sign would require a variance if it were newly constructed today. Message board signs are discouraged in residential zones in order to preserve the character and separation of residential and commercial uses. The proposed sign will not be backlit with fluorescent lighting, but will be electronically lit. One aspect of the proposed sign that will bring a new element beyond the existing sign's capability is the electronic messaging capability. As a result, the granting of a message board with moving messages will go beyond the minimum necessary to afford relief. The fact that programming messages will be faster, easily updatable, and possibly more visible to passers-by does not warrant being the minimum necessary to afford relief. Granting of an electronic message board sign in a Multi-Family zone would be a grant of special privilege as other institutional uses on Lowrise zoned properties would not be able to erect similar signs.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;*

The subject site is bordered by residential structures on three sides (see the information provided on the vicinity, above) and there is a crosswalk (across 27th Av NE) near the location of the proposed signage. The illumination could intrude into the surrounding residential units especially those homes directly across 27th Av NE. In addition, NE 125th Street is an arterial with direct access to and from Lake City Way NE that carries a high volume of traffic. Studies¹ have shown that signs with movement (flashing or changing messages) cause driver distraction because the brain anticipates additional information with scrolling text or moving images and because the contrast between the lighting for the signage and ambient lighting can cause drivers to miss pedestrians, safety messages and even other vehicles. In addition to concerns regarding vehicular safety, the pedestrian traffic along the arterial (associated with residents of the neighborhood) warrants the highest degree of pedestrian safety.

According to the information provided by the applicant, advances in hardware design mean that even the most basic model of electronic messaging signs include the capacity for graphics and animation. The specifications for the proposed signage state that the total viewing angle for the signage is 140 degrees and the LED display illumination for the proposed model is 5,000 NITs. The applicant has suggested that holding the illumination of the new LED display to sixty percent of the 5,000 NITs possible during the day and to ten percent of the full illumination possible during the evening will hold the brightness to levels similar to the current florescent back lit sign face (no direct comparison was available between lumens and NITs for the existing and proposed signage).

Conditions to limit movement, color, the use of video display, illumination levels, and hours of operation will partially mitigate the potential detrimental effects to pedestrians and property owners however, the facing direction of the sign coupled with the electronic moving message capability of the proposed sign will have light and glare impacts on residential units on

¹ Digital Signs Along Roads and Streets, Concerns for Road Users Inattention and Distraction, a Memo prepared for the City of Seattle by Jerry Wachtel

surrounding properties, especially properties to the east (across 27th Ave NE). The design and function of the proposed sign creates the impact of a more intrusive commercial aesthetic in this residentially zoned area as well.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue and unnecessary hardship or practical difficulties;*

Advances in sign design and construction mean that changing the message on a reader board can now be done electronically, however the Land Use Code does not allow for electronic “changing image signs” in multi-family zones. The applicant asks to allow an upgrade to the existing manually changed reader board which would address the practical difficulty of message maintenance on the existing sign by allowing for messages to be changed from a computer terminal inside the building as opposed to sending someone out to take down and repost letters manually and would allow greater ease in changing the message more frequently.

The literal and strict interpretation in this case does not cause a hardship or difficulty as the existing sign is clearly visible from the roadway is readily accessible (only a few feet above the ground) for updating messages.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

When analyzing the spirit and purpose of the Land Use Code it is appropriate to look at the function of each zone as it relates to the area of the proposal and the variance requested. The character of the area of the proposed sign has predominantly multi-family uses and structures. There is Commercial zoning to the east of the proposed sign, but the proposed sign will not be visible from the Commercial zone. The multi-family zone functions as land designated to provide for a low moderate and high density development while maintaining the residential character of an area. The intent of the sign code is to “promote the enhancement of business and residential properties and neighborhoods by fostering the construction of signs complementary to the buildings and uses to which they relate and which are harmonious with their surroundings.” In this case, the vicinity in which the sign is proposed and visible is zoned multi-family and is primarily residential in nature. Allowing an electronic commercial message board in a multi-family zone would be in opposition to the intent of the Sign Code and would be incompatible with the zone in which the sign is proposed. The requested variance is inconsistent with the spirit and purpose of the Land Use Code for the area in which the proposal is located.

Conclusion

Variances from the provisions or requirements of Seattle Municipal Code Title 23 shall be authorized only when all of the criteria stated in SMC 23.40.020 (discussed above) are met. There are no site specific conditions that would keep the Church from enjoying the rights and privileges of other properties (criterion #1) and the code does not allow for electronic signage in residential zones (criterion #2 and #5). However with regard to Churches the Department believes it is must approve this application per superseding regulations (see below). In order to limit the potential safety impacts of a video display (as described under criterion #3) and reduce the impacts on surrounding residential properties, the Variance is approved with conditions to limit the function as described below.

SUPERSEDING REGULATIONS

Because the Washington Supreme Court has ruled that municipalities may not apply land use regulations to churches in the same manner that it applies regulations to other landowners, the City believes that it is legally required to approve the application despite the City's determination that it does not comply with Code requirements, as described above.

DECISION – VARIANCE:

Per superseding regulations (described above) the **Variance** to allow a message board sign in a Multi-Family (MF) zone (SMC 23.55.020.B) is **Approved with Conditions**

CONDITIONS – VARIANCE

For the Life of the Project:

- 1) Size - Maximum size 12 sq. ft. each face (two sides) for the electronic message portion of the sign. Overall sign dimensions are limited to 21 sq. ft. each side.
- 2) Monochrome display only, a solid color background and one color for lettering (i.e. black background w/ red lettering).
- 3) Text only. No flashing (or light level or color changes that mimic flashing), No streaming, No picture images, No video display.
- 4) Illumination levels shall be held to 3,000 NIT's during the daytime and at 500 NIT's during the evening; and
- 5) Daytime illumination levels shall be timed to automatically dim at night and during inclement weather and shall also account for seasonal light level fluctuations.
- 6) Hours of operation 7 a.m. to 10 p.m. Signage to be turned off after 10 p.m.

Signature: _____ (signature on file) Date: October 15, 2009
Justina Guyott, Land Use Planner
Department of Planning and Development
Land Use Services

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