COUNCIL AGENDA: 9/19/06
ITEM: 4.6

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR
CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: **Proposed Ordinance to Allow Inflatable or Balloon Signs on Certain Large Parcels Located Downtown**

DATE: September 15, 2006

Attached is a copy of the Proposed Ordinance described in the Subject line above, which Proposed Ordinance is set for consideration by the City Council next week at its meeting on September 19, 2006, under Agenda, Item No. 4.6. The attached draft is in underscored format for ease of review of the proposed language changes.

Richard Doyle
City Attorney

By: Renee A. Gurza
Renee Gurza
Sr. Deputy City Attorney

Attachment

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING PART 1 OF CHAPTER 23.02 OF TITLE 23 OF THE SAN JOSE MUNICIPAL CODE TO ADD A DEFINITION OF INFLATABLE SIGNS AND AMENDING SECTIONS 23.04.110 AND 23.04.120 OF CHAPTER 23.04 OF TITLE 23 OF THE SAN JOSE MUNICIPAL CODE TO ALLOW INFLATABLE SIGNAGE ON CERTAIN LARGE PARCELS LOCATED WITHIN THE DOWNTOWN SIGN ZONE

WHEREAS, the area of the City defined in Section 23.04.100 of Chapter 23.04 of Title 23 of the San José Municipal Code as the "Downtown Sign Zone" was included within an environmental analysis contained within that certain Environmental Impact Report prepared for the Downtown Strategy Plan 2000 (the "EIR"), which EIR was prepared in conformance with the California Environmental Quality Act of 1970, regulatory guidelines promulgated pursuant thereto and Title 21 of the San José Municipal Code (collectively, "CEQA") and found complete by the _____ of the City of San José on June ____, 2005; and

WHEREAS, the City Council of the City of San José, acting as lead agency under CEQA, adopted Resolution No. 68839 in connection with said EIR; and

WHEREAS, the City Council of the City of San José is the decision-making body in connection with the approval and adoption of this proposed Ordinance; and

WHEREAS, this Council does hereby certify that, as the decision-making body, it has considered and approves the information contained in said EIR and Resolution No. 68839 in connection with this proposed Ordinance and prior to acting upon this proposed Ordinance;

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NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Chapter 23.02 of Title 23 of the San José Municipal Code is hereby amended by adding a new Section to be numbered and entitled and to read in its entirety as follows:

23.02.265 Inflatable or Balloon Sign

"Inflatable sign" or "balloon" sign means a sign consisting of a flexible envelope of nonporous materials that gains its shape from inserted air or other gas.

SECTION 2. Section 23.04.110 of Chapter 23.04 of Title 23 of the San José Municipal Code is hereby amended to read in its entirety as follows:

23.04.110 Amount of Signage

A. Except as provided in Subsection B below:

1. The aggregate sign area of all signs on an occupancy frontage shall not exceed two and five-tenths (2.5) square feet for each linear foot of occupancy frontage.

2. The maximum sign area for any one sign shall not exceed one and five-tenths (1.5) square feet for each linear foot of occupancy frontage where the sign is displayed.

3. Signs may be displayed on more than one occupancy frontage, subject to the maximum amount of signage allowed for each occupancy frontage.

B. Instead of the signage amount permitted by Subsection A above, an applicant, at applicant's option, may select any of the following methods, as applicable, for determining maximum amount of signage:

1. Maximum signage for a parcel may be based on street frontage instead of occupancy frontage. In such case, the total amount of signage on each street frontage shall not exceed one square foot for each linear foot of street frontage.

2. For an occupancy frontage including a marquee, maximum sign area of the marquee, maximum amount of other signage on the occupancy frontage and

placement of signs may be determined by the Director subject to design approval.

3. For a single building with a footprint of one hundred twenty-five thousand (125,000) square feet or more, maximum signage may be determined as follows:

   a. A building with a footprint of one hundred twenty-five thousand (125,000) square feet or more but less than one hundred seventy-five thousand (175,000) square feet may have one programmable display sign plus other signage as allowed in Subsection c below.

   b. A building with a footprint of one hundred seventy-five thousand (175,000) square feet or more may have up to two programmable display signs plus other signage as allowed in Subsection c below.

   c. The total signage for the building, including programmable display sign(s) and other signage, shall not exceed seventy-five (75) percent of the signage allowance computed as in Subsection 23.04.110.A above; however, the signage allowance computed as in Subsection 23.04.110.A above for all occupancy frontages of such building may be aggregated for the purpose of determining the maximum allowable size of the programmable display sign(s).

C. Inflatable signs expressly allowed under Section 23.04.120.R below shall not reduce the allowable signage permitted under Subsections 23.04.110.A and 23.04.110.B.

SECTION 3. Section 23.04.120 of Chapter 23.04 of Title 23 of the San José Municipal Code is hereby amended to read in its entirety as follows:

23.04.120 Types of Signs

A. Any Combination of Signs.

1. Signage allowed by Section 23.04.110 may consist of any combination of allowed free-standing signs, flat-mounted signs, projecting signs, awning signs, banners, inflatable or balloon signs, skyline signs and roof signs. Segmented signs are allowed.

2. Each occupancy frontage may also display window signs, temporary signs, safety or directional signs, and any other signs expressly authorized by this Code.

B. Free-Standing Signs.

1. Except as provided in this Subsection, free-standing signs shall not exceed eight feet in height above grade.

2. Free-standing signs that are less than six feet wide may be up to twenty-five (25) feet in height above grade.

3. The height of construction signs shall be as set forth in Section 23.04.610B.6.

4. Free-standing roof signs in accordance with Subsection G below and free-standing programmable display signs in accordance with Subsection J below shall not be subject to the foregoing height restrictions.

C. Flat-Mounted Signs.

1. Flat-mounted signs (except for permitted skyline signs, flat roof-top signs and banner signs) shall be displayed no higher than thirty (30) feet above grade, except as otherwise specifically allowed in this Section.

2. Flat-mounted signs (except for permitted skyline signs, flat roof-top signs and banner signs) shall be displayed no higher than eighty (80) feet above grade when the building meets all of the following criteria:

   a. The building is eighty (80) feet or greater in height above grade; and

   b. The building has a building footprint of one hundred fifty thousand (150,000) square feet or greater.

3. Flat-mounted signs shall not project more than two (2) inches from the face of the building, except for:

   a. Flat-mounted signs consisting of individual letters or letters attached to raceways; or

   b. Flat roof-top signs that may project no more than sixty (60) inches from the face of the roof.

D. Projecting Vertical Signs and Fin Signs.

1. Projecting vertical signs:

   a. Shall be located at least twenty (20) feet but no higher than sixty (60) feet above grade; and

b. Shall project no more than five (5) feet six (6) inches; and

c. Shall not project above the cornice or parapet of a building.

2. Fin signs:

a. Shall be located no higher than thirty (30) feet above grade or the height of the finished floor elevation of the third floor of the building, whichever is less; and

b. Shall project no more than one-half (1/2) the width of the sidewalk over which the sign projects or seven feet six inches, whichever is less.

E. Awning Signs; Porte-Cochere Signs.

1. Awning signs shall be located no higher than thirty (30) feet above grade.

2. Signage on awnings shall be limited to twenty-five (25) percent of the exterior surface area of the awning.

3. Signage on porte-cocheres shall be allowed only on vertical surfaces of the porte-cochere and shall be limited to twenty-five (25) percent of the exterior surface area of the vertical surfaces of the porte-cochere.

F. Banner Signs.

1. Free-standing banners shall comply with the provisions of Section 23.04.120.B above.

2. Projecting banners shall comply with the provisions of Section 23.04.120.D above.

3. Flat-mounted banners:

a. Shall not exceed twenty (20) feet in width; and

b. Shall be located no higher than fifty (50) feet above grade, provided that banners located higher than thirty (30) feet above grade shall be mounted within building recesses or portals.

4. Notwithstanding any provision of this Chapter to the contrary, buildings with a footprint of seventy-five thousand (75,000) square feet or greater may erect banners only in compliance with all of the following criteria:

a. A total maximum of five banners shall be allowed at any time;

b. One banner may be up to a maximum of one thousand two hundred (1,200) square feet in total area and any and all remaining banners may be up to a maximum of six hundred (600) square feet in total area; and

c. All banners shall be place no higher than eighty (80) feet above finished grade; and

d. All banners shall contain and display noncommercial messages only.

G. Skyline Signs; Roof Signs.

1. Applicability

a. Buildings one hundred forty (140) feet or greater in height above grade may have either skyline signs or roof signs; and

b. Buildings greater than eighty (80) feet and less than one hundred forty (140) feet in height above grade may have skyline signs; and

c. Non-garage uses on the top floor of parking garages may have skyline signs.

2. Dimensions

a. The total amount of square footage of sign area for all skyline signs or roof signs on buildings two hundred twenty-five (225) feet or greater in height above grade shall not exceed two thousand (2,000) square feet per building. Any one such skyline sign or roof sign shall not be larger than one thousand (1,000) square feet.

b. The total amount of square footage of sign area for all skyline signs or roof signs on buildings one hundred ninety (190) feet or greater in height above grade and less than two hundred twenty-five (225) feet in height above grade shall not exceed one thousand four hundred (1,400) square feet per building. Any one such skyline sign or roof sign shall not be larger than seven hundred (700) square feet.

c. The total amount of square footage of sign area for all skyline signs or roof signs on buildings one hundred forty (140) feet or greater in height above grade and less than one hundred ninety (190) feet in height above grade shall not exceed one thousand one hundred (1,100) square feet per building. Any one such skyline sign or roof sign shall not be larger than five hundred fifty (550) square feet.

d. The total amount of square footage of sign area for all skyline signs on buildings greater than eighty (80) feet and less than one hundred forty (140) feet in height above grade shall not exceed five hundred (500) square feet per building. Any one such skyline sign shall not be larger than two hundred fifty (250) square feet.

e. The total amount of square footage of sign area for skyline signs for non-garage uses on the top floor of parking garages shall not exceed seven hundred fifty (750) square feet per building. Any one such skyline sign shall not be larger than five hundred (500) square feet.

3. Each skyline sign or roof sign shall be designed as an integral part of the building design and placed on a permanent architectural element which has been designed to accommodate it.

4. There shall not be both a skyline sign and a roof sign on the same building or on connected buildings.

5. Skyline signs and roof signs may be illuminated with external lighting; halolighting; and internal lighting if only the letters or symbols are illuminated. Such signs shall be illuminated only with continuous lighting except that gradual color changes shall be allowed if there is no perception of flashing lights created.

6. Skyline signs and roof signs on buildings greater than eighty (80) feet in height above grade shall not reduce otherwise allowable signage for the building.

7. A total of two skyline or roof signs are allowed per building.

H. Window Signs. Window signs consistent with Section 23.02.1060 of this Title shall be allowed on first- and second-story windows.

I. Marquees.

1. Marquees are allowed for theatres and movie houses and on buildings containing marquees that historically were theatres or movie houses.

2. A marquee, including any vertical projection, is a single sign and an architectural element. The vertical projection of a marquee may project above the cornice line of a building.

3. Marquees may be animated signs or have animated sections.

4. Marquee signage shall not be subject to the size and placement limitations elsewhere in this Part, but instead shall be subject to the provisions of Section 23.04.110B.2.

J. Programmable Display Signs.

For a single building with a footprint of at least one hundred twenty-five thousand (125,000) square feet, a maximum of two (2), attached programmable display signs are allowed, subject to the approval of the Director, whose approval shall be issued when the sign or signs meet all of the following criteria:

1. The sign(s) shall be located no higher than twelve (12) feet from grade unless the Director finds that a greater height achieves a pedestrian-level orientation; and

2. The sign(s) shall not reduce or obscure glazing; and

3. Each sign does not exceed a maximum size of eighteen (18) square feet in sign area; and

4. No sign is displayed on the exterior of that portion of a building containing residential uses.

K. Programmable Display Kiosk Signs.

Programmable Display Kiosk Signs are allowed subject to the following criteria and conditions:

1. The total sign area on kiosks shall not exceed eighteen (18) square feet per kiosk face in the aggregate, and no Programmable Display Kiosk Sign shall be located higher than eight (8) feet in height above grade.

2. Programmable Display Kiosk Signs may be animated and/or may be illuminated with continuous external or internal lighting.

3. Programmable Display Kiosk Signs shall not be displayed on kiosks located within forty (40) feet of another kiosk displaying a Programmable Display Kiosk Sign.

4. A minimum width of unobstructed sidewalk clearance of four (4) feet shall be maintained around a kiosk for pedestrian traffic.

5. The maximum number of kiosks on which a Programmable Display Kiosk Sign may be displayed shall be the number equivalent to one (1) kiosk per

every five (5) acres of development within the Urban Mixed Use Development Area Sign Zone.

L. Time and Temperature Signs.

1. Any sign otherwise permitted in this Part may include a time and temperature sign, provided that a time and temperature sign may not be established within three hundred (300) feet of another time and temperature sign.

2. Each time and temperature sign shall be limited to fifteen (15) square feet in sign area, excluding any frame.

3. Time and temperature signs may not be located higher than thirty (30) feet above grade.

M. Lightbox Signs for Gasoline Service Stations. Lightbox signs at gasoline service stations shall not exceed twenty (20) percent of the surface area of the lightbox up to a maximum of eight square feet.

N. Architectural Signs.

1. The total amount of Architectural Signs allowed on any one building shall not exceed a total maximum area of two hundred (200) square feet per building, in the aggregate.

2. Each Architectural Sign shall be limited in area to a maximum of thirty-two (32) square feet, except that one Architectural Sign of up to one hundred (100) square feet in area may be located on one building frontage, all subject to the total maximum area allowed under Subsection 23.04.120.N.1 above.

3. Architectural Signs may be allowed on the exterior of that portion of a building containing residential uses.

O. Public Parking Garage Signs.

1. Notwithstanding any other provisions of this Code, one (1) additional sign shall be allowed on any building containing a garage that provides public parking, under the following circumstances:

   a. The building contains five hundred (500) or more public parking spaces.

   b. Any part of the building is within one thousand (1,000) feet of an expressway or freeway.

2. Such sign:

a. Shall be flat-mounted.

b. Shall be a maximum of one hundred (100) square feet in sign area.

c. Shall be located at least thirty (30) feet but no higher than seventy (70) feet above grade and shall not project above the cornice or parapet of the building.

d. Shall be displayed so as to be visible from the expressway or freeway.

e. May be illuminated only with external lighting or internal lighting and only to the extent illumination does not create any traffic safety hazard.

3. The message on such sign shall be limited to "Public Parking" and/or any authorized City public parking symbol(s).

4. Such sign shall not reduce otherwise allowable signage for the building.

P. Freeway or Highway Off-Ramp Signs.

1. Subject to the provisions of Section 23.02.1180, a building greater than eighty (80) feet in height above grade located on a parcel of real property that is directly adjacent to a freeway off-ramp or highway off-ramp may have only the following skyline or roof signs:

a. A maximum of two skyline or roof signs that conform to all of the applicable requirements set forth in Section 23.04.120.G; or

b. A maximum of one skyline or roof sign that conforms to all of the applicable requirements set forth in Section 23.04.120.G and one flat-mounted sign that meets all of the following criteria:

(1) The size of the sign shall not exceed a maximum of one hundred (100) square feet in sign area;

(2) The sign shall be mounted to the building with an orientation that is perpendicular to, and is not directly facing, the centerline of the freeway or highway off-ramp; and

(3) The sign shall not be visible from the main freeway or highway to which the off ramp is attached.

Q. Flat Roof-Top Signs.

1. Buildings with a footprint of one hundred fifty thousand (150,000) square feet or greater may install a maximum of two flat roof-top signs that meet all of the following criteria:

   a. Each flat roof-top shall not exceed a maximum of sixteen thousand (16,000) square feet in sign area, and the total sign area of two flat roof-top signs shall not exceed a maximum of thirty-two thousand (32,000) square feet; and

   b. A flat roof-top sign may be externally or internally illuminated with continuous lighting between the hours of 7:00 a.m. and 12:00 a.m., but shall not be illuminated by any means after 12:00 a.m. and before 7:00 a.m.; and

   c. Any illumination of a flat roof-top sign shall fully conform with the City's lighting policies, unless an exception is granted therefor or applicable thereto; and

   d. Any illumination of a flat roof-top sign shall not produce light that is visible with the naked eye from public areas located within one hundred (100) feet of the building on which the sign is installed.

R. Inflatable or Balloon Signs.

1. Inflatable or balloon signs may be allowed on sites and in a manner meeting all of the following criteria:

   a. The size of the parcel on which the inflatable or balloon sign would be located shall be a minimum of seven (7) acres; and

   b. A maximum of one (1) inflatable or balloon sign may be installed on a building on each such parcel; and

   c. The sign must be safely and securely mounted to the roof of a building with a minimum floor area of fifty thousand (50,000) square feet and a maximum height of fifty (50) feet.

2. The inflatable or balloon sign allowed under this Section must meet the additional following criteria:

   a. The inflatable or balloon sign shall be no greater than three thousand six hundred (3,600) cubic feet in size; and

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b. The inflatable or balloon sign shall extend no higher than the lesser of the follow heights:

(1) Thirty (30) feet above the building parapet or building roof surface if there is no parapet; or

(2) The height set forth in a no hazard determination by the Federal Aviation Administration; and

c. The inflatable or balloon sign shall extend no more than ten (10) feet below the building parapet or building roof surface if there is no parapet.

PASSED FOR PUBLICATION of title this _____ day of _____, 2006, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk