



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: August 11, 2009

Approved

Date

8/11/09

COUNCIL DISTRICT: District 3

SNI AREA: Market/Almaden,
University and 13th
Street

SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 23 OF THE SAN JOSE MUNICIPAL CODE, THE SIGN ORDINANCE, TO ALLOW PROGRAMMABLE DISPLAY SIGNS FOR LARGE GROUND-FLOOR SPACES IN THE DOWNTOWN SIGN ZONE, TO ESTABLISH REGULATIONS FOR THESE SIGNS, AND TO MAKE OTHER RELATED CLARIFYING CHANGES.

RECOMMENDATION

Staff recommends that the City Council adopt the proposed ordinance amending Title 23 of the San Jose Municipal Code to allow programmable display signs for large ground-floor spaces in the Downtown Sign Zone.

OUTCOME

The proposed ordinance would allow large ground-floor establishments in the Downtown Sign Zone to implement attached programmable display signs subject to current limitations on overall signage area.

BACKGROUND

The Sign Ordinance currently defines a programmable display sign as “an animated sign made up of a field of individual electronic elements or mechanical grids that, when programmed and activated, create still or moving images or words. The elements may be internally illuminated or may be illuminated by reflected light. The sign may be framed by permanent, nonmoving signage.” Programmable display signs may consist of LED or video displays that include

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moving images or messages that change at prescribed intervals. The City may regulate the time, place and manner of display of these signs, but does not control the content of the messages displayed.

Currently, programmable display signs are allowed in the Downtown Sign Zone only for buildings with a footprint of 125,000 square feet or greater, as part of a theater marquee, or on a freestanding kiosk located in a private walkway or plaza. The number of existing programmable display signs in the Downtown Sign Zone is fairly limited. Very large buildings like the Arena and the Convention Center currently qualify for, and have implemented, programmable display signs based on building footprints that exceed 125,000 square feet. The San Jose Repertory Theater and Camera 12 Cinema are examples of theaters that include programmable display marquees. No programmable display kiosks have yet been implemented in the Downtown Sign Zone.

Safeway has recently installed a sign on the San Fernando frontage of its new store currently under construction in the ground floor of The 88 at the corner of San Fernando and 2nd Streets. This sign is capable of accommodating (and Safeway proposes to activate) a programmable display sign. The building footprint of The 88 is significantly less than 125,000 square feet and the proposed programmable display sign cannot be implemented under the current Sign Ordinance regulations.

As part of the Sign Code Update, staff has been exploring various strategies for allowing additional opportunity for use of programmable display signs in the Downtown Sign Zone. One of the regulatory options under consideration (which has been discussed with the community) is allowance for programmable display signs for large ground-floor establishments in the Downtown Sign Zone. Based on the current schedule for the Sign Code Update, any such provisions the City Council may choose to include in the Sign Ordinance through the Update would not be effective until January 2010, at the earliest.

On August 5, 2009, the Rules Committee directed staff to prepare an ordinance on an expedited schedule revising the Sign Ordinance to allow programmable display signs for large ground-floor spaces in the Downtown Sign Zone with a size limit of substantially larger than 18 square feet. In its discussion of the issue, the Rules Committee indicated that an ordinance facilitating signs of this type was needed as soon as possible to support downtown revitalization projects like the proposed Safeway.

In response to that direction, staff has prepared the proposed draft ordinance for consideration by the City Council on August 25, 2009. If approved for publication at its first reading, the ordinance would be scheduled for a second reading and adoption at the City Council meeting on September 1, 2009, and, if adopted on that date, would become effective on October 2, 2009.

ANALYSIS

The proposed ordinance (which will be posted on the City's website pursuant to applicable City policies and processes) amends Title 23 of the San Jose Municipal Code (the Sign Ordinance) to

allow programmable display signs for large ground-floor spaces in the Downtown Sign Zone. Table 1 provides a summary of the proposed parameters for programmable display signs for large ground-floor spaces.

Table 1. Programmable Display Sign Parameters for Ground-floor Spaces in the Downtown Sign Zone	
Number of Signs	1 sign for each occupancy frontage of 150 linear feet or more
Maximum Sign Area	35 square feet (a programmable display sign may be attached to or surrounded by a conventional sign subject to the overall sign area limits)
Maximum Height	25 feet above grade
Other Restrictions	<ul style="list-style-type: none"> • Sign must be attached to a building • Sign cannot be mounted on or cover a window • Sign cannot be mounted on or illuminate that portion of a building façade or wall containing residential living units.

Number of Signs. One attached sign is proposed to be allowed for any occupancy frontage of 150 linear feet or more in length. The Sign Ordinance defines an occupancy frontage as "...that portion of a building occupied exclusively by an individual tenant or owner and abutting a parking lot or a public right-of-way including, but not limited to, a street, plaza or alley." This proposed parameter attempts to balance the City's goal of enlivening the Downtown Core Area with vibrant signage with the objective of preventing visual clutter by allowing programmable display signs only on a limited basis for large ground-floor establishments. The proposed minimum 150 foot dimension is typical of the width of a moderate-size supermarket or drug store, just over half the length of the narrow side of a typical downtown block and significantly larger than the average downtown ground-floor restaurant, hair salon or retail establishment.

As an example of how these parameters would apply in a real-life situation, the Safeway soon to open at San Fernando and 2nd Streets, would qualify for up to two programmable display signs, one for the occupancy frontage on San Fernando Street (approximately 170 linear feet) and one for the occupancy frontage on South Second Street (approximately 178 linear feet). Safeway is

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currently proposing only a single programmable display sign to be activated within the sign installed on its San Fernando frontage.

Maximum Sign Area. The maximum area of a programmable display sign is proposed to be limited to 35 square feet.¹ This maximum sign area represents approximately 10 percent of the total sign area allowed in the Downtown Sign Zone for an occupancy frontage of 150 linear feet and approximately 15 percent of the maximum allowed area for a single sign on such a frontage. The relatively small maximum size is intended to minimize potential light and glare impacts associated with programmable display signs until such time as staff can more thoroughly explore and recommend appropriate limitations on light intensity, frequency of message change and other operational factors for these signs through the more comprehensive Sign Code Update. The proposed regulations allow a programmable display sign to be incorporated into a larger conventional sign, subject to the overall sign area limitations for the occupancy frontage.

The programmable display sign proposed for the downtown Safeway includes a projecting programmable display sign of approximately 30 square feet per side. This programmable display sign is part of a larger conventional sign which results in a total sign area of approximately 90 square feet per side.

Sign Height. The proposed parameters require that programmable display signs for large ground-floor occupancy frontages be mounted no higher than 25 feet above grade and allow signs to be mounted above the level of the second floor, provided that the sign is not mounted on and does not illuminate that portion of a building façade that contains residential living units. The latter provision is intended to ensure that programmable display signs do not result in light and glare impacts on residential uses within a mixed-use building. The 25-foot height limit applies only to the programmable display sign, which may be attached to or surrounded by conventional signage, which is generally limited to a height of 30 feet above grade. In areas of downtown where street trees have mature canopies, business owners may choose to mount signs lower than the 25-foot level to ensure that they are visible below the tree canopy, which is generally trimmed to a height of 14 to 18 feet.

The programmable display portion of the Safeway sign is proposed to be located at a height of approximately 24 feet above grade on a portion of the second floor that is used as a parking garage and is located over 100 feet from the nearest residential living unit within The 88 mixed-use building. The programmable sign is incorporated into a larger conventional sign that extends to a maximum height of 30 feet.

Relationship to Sign Code Update

As part of the Sign Code Update, staff has been working to assess the broader issue of where and in what manner programmable displays signs should be displayed in San Jose and has received a significant amount of feedback from the community on this issue. In analyzing this issue, staff

¹ Under current Sign Ordinance provisions, calculation of sign area for a two-sided sign is based on the largest area of a single side if the two message surfaces face in opposite directions and are no more than two feet apart.

will be carefully considering community concerns regarding the potential light and glare impacts of these signs on residential uses as well as concerns regarding potential traffic safety impacts. This analysis may result in recommendations that expand or limit the allowance for programmable display signs and provide regulations for their operation in terms of light intensity, frequency of message change and hours of operation.

The currently proposed ordinance provides a fairly narrow expansion of the existing provisions for programmable display signs in the Downtown Sign Zone that allows appropriate flexibility for large ground-floor commercial spaces while the City completes a more comprehensive assessment of regulations for this type of sign through the Sign Code Update. The proposed ordinance includes measures limiting the height of the proposed programmable display signs and prohibiting their installation on or illumination of the residential portion of mixed-use buildings to ensure that they do not impact proximate residential uses. The relatively slow traffic speeds in the Downtown Core Area (posted traffic speeds are generally less than 30 miles per hour) and the numerous traffic signals in this area are anticipated to reduce the traffic safety implications of driver distractions and to provide drivers with opportunities to view signs with changing messages safely while their vehicles are at rest at an intersection.

Conclusion

The proposed ordinance appropriately balances the City's goal of enlivening the downtown urban core with vibrant signage with the objective of preventing visual clutter by allowing programmable display signs on a limited basis subject to specific size and location criteria, and it does not limit the City's ability to address the issue of programmable signage more thoroughly through the Sign Code Update.

EVALUATION AND FOLLOW-UP

Staff will be returning to the City Council with more comprehensive recommendations for Programmable Display Signs through the Sign Code Update.

POLICY ALTERNATIVES

Following are the policy alternatives considered in the analysis of this proposed ordinance.

Alternative #1: Wait and address any additional provisions for programmable display signs through the Sign Code Update.

Pros: Addressing any new provisions for programmable display signs through the Sign Code Update would allow for a comprehensive evaluation of the issues associated with this type of sign before any new regulations are adopted.

Cons: Addressing this issue through the Sign Code Update would delay by six months or more the potential for implementation of programmable display signs by large ground-floor businesses like the new downtown Safeway.

Reason for not recommending: This alternative would not allow large ground-floor establishments in the Downtown Sign Zone to implement programmable display signs in the near term.

Alternative #2: Address broader citywide provisions for programmable display signs in the current ordinance.

Pros: This alternative would allow for a comprehensive evaluation of the appropriate regulations for programmable display signs before any new regulations are adopted.

Cons: The necessary analysis and community outreach for a more comprehensive assessment of regulations for programmable display signs would delay the current ordinance, thereby delaying the ability of large ground-floor businesses in the downtown to implement programmable display signs. This alternative would further delay the Sign Code Update.

Reason for not recommending: The Sign Code Update provides a more appropriate time frame and process for a comprehensive assessment of regulations applicable to programmable display signs.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Staff presented the concept of allowing programmable display signs for large ground-floor establishments in the Downtown Sign Zone through the last round of community and focus group meetings for the Sign Code Update. Response to this proposal was generally positive, although some concerns were expressed regarding potential light and glare impacts of these signs on residential uses located in mixed-use buildings. The issue of programmable display signs, in general, elicited concern regarding the potential impact of these signs on traffic safety.

A notice of the Public Hearing for this ordinance was published in the Mercury News and emailed to a city-wide email list of businesses, community organizations and individuals. The

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staff report and hearing notices are available for public review on the Planning Department website at <http://www.sanjoseca.gov/planning/zoning/sign.asp>.

On August 12, 2009, staff received the attached email communication from Bob Mack expressing concern regarding the potential traffic safety impacts of programmable display signs. The issue of traffic safety is discussed in the Analysis section of this memorandum and will be addressed more comprehensively through the Sign Code Update.

COORDINATION

This ordinance was coordinated with the Redevelopment Agency, the Office of Economic Development and the City Attorney.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies regarding revitalization of the Downtown as a place to live, work and shop.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

CEQA: Exempt, PP09-159



JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Carol Hamilton, Senior Planner, 408-535-7837.

Attachment: Email

Hamilton, Carol

From: Bob Mack [BMack@CycleCalifornia.com]
Sent: Wednesday, August 12, 2009 7:56 AM
To: Hamilton, Carol
Subject: Re: [WGNA] FWD: Council hearing on LED Billboards, 8/25/09

Dear Ms. Hamilton,

I strongly feel that these types of signs should not be allowed. They are overly bright, and can distract or blind vehicle drivers. This can cause vehicular crashes that can kill or injure people. No form of business advertising should be allowed that puts people at risk for injury.

A prime example of this is the large similar sign on highway 101 in Redwood City. I have seen many drivers swerve across lanes when a bright ad pops up on this sign. I have been temporarily blinded by this sign on several occasions.

Please include this in the public comment on this issue.

Thank you,

Bob Mack
1159 Bird Ave #2
San Jose, CA 95125
408-294-0270 (days)