COUNCIL AGENDA: 12-01-09
ITEM:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: **DRAFT SIGNAGE STRATEGY FOR THE SIGN ORDINANCE UPDATE**

DATE: November 17, 2009

Approved Paul Krutko Date 11/17/09

COUNCIL DISTRICT: Citywide
SNI AREA: All

RECOMMENDATION

Staff recommends that the City Council accept the report and direct the Administration to prepare an ordinance to revise Title 23 of the San Jose Municipal Code (the Sign Ordinance) consistent with the proposed draft signage strategy and conduct additional community outreach.

OUTCOME

With this item, the City Council would endorse or modify the following recommendations (known as the draft signage strategy) for the Sign Ordinance:

1. Allow freeway signs with a digital/electronic component for large shopping centers near freeways. Allow attached signage for freeway occupancy frontages and remove restriction on signs facing freeways.
2. Revise the parameters for electronic/digital signs (programmable display signs) for large ground-floor spaces in the Downtown Sign Zone, allow programmable display signs as freestanding signs within a subarea of the Stevens Creek Boulevard Signage Area, within the Capitol Expressway Auto Mall Signage Area and within the proposed Blossom Hill Boulevard Signage Area; and allow electronic/digital signs for large assembly uses citywide.
3. Allow large "supergraphic" signs as temporary signs on blank walls in the Downtown Sign Zone subject to specific parameters.
4. Retain the existing billboard ban for both static and electronic/digital billboards.
5. Delay action regarding off-site advertising on public property until resolution of a non-San Jose lawsuit currently on appeal provides clearer legal guidance on whether a city can have a billboard ban while allowing off-site advertising on public property.

The recommended signage strategy also includes additional recommended changes to the Sign Ordinance that are scheduled to be brought forward to the Council on December 15, 2009. These recommendations will include, but are not limited to, provision for skyline signs citywide, greater flexibility for temporary signage in the Downtown Sign Zone, and a number of other revisions regarding the placement and types of signs allowed in the Downtown Sign Zone, in Neighborhood Business Districts and citywide. Council direction on the strategy will enable staff to prepare revised sign regulations that balance the City's goals for visually vibrant development, successful commercial businesses, and attractive streetscapes.

EXECUTIVE SUMMARY

The following matrix outlines current Sign Ordinance provisions and the recommended revisions proposed by staff regarding four key signage issues.

Recommendations for Key Signage Issues		
Category	**Existing Regulations**	**Proposed Regulations**
Freeway Signs	•Large pylon signs for shopping centers not allowed. •Attached signs on freeway building frontages not allowed if no intervening parking/street/plaza.	•Allow one pylon sign for 25+ acre shopping centers located within 200 ft. of a freeway. Max area: 400 sq.ft./Height: 60 ft. Programmable Display Sign (PDS) allowed for 50% of sign area. On-site/non-commercial messages only. Need traffic safety parameters. • Allow attached signs for bldg. frontages next to a freeway. Allow signs to face a freeway.
Programmable Display Signs (PDS)	•Allowed on a limited basis in the Downtown (DT), Urban Mixed Use and Airport Sign Zones. •Small time and temperature signs allowed citywide.	•Increase allowed size of attached signs for large ground-floor spaces in the DT Sign Zone to 50 sq.ft. Reduce frontage requirement. •Allow PDS signs up to 50% of freestanding signs for large sites in specific areas of Stevens Creek Blvd., Capitol Exp. and Blossom Hill Rd. •For all PDS signs, allow on-site or non-commercial messages only. Develop parameters to address traffic safety and compatibility.
Supergraphics in the Downtown Sign Zone	Banners over 1200 sq.ft. not allowed.	•Allow in DT Sign Zone as temporary signs (60 days) up to 5,000 sq.ft. Maximum 5 signs at one time. Cannot cover or surround windows.
Billboards/Offsite Advertising on Public Property	Not allowed.	•Retain existing billboard ban for private property. Delay decision on off-site signs on public property pending resolution of a lawsuit currently on appeal regarding whether a city can allow off-site signs on public property only.

In adopting the budget for the current fiscal year, the City Council directed the Administration to explore a citywide advertising program involving off-site advertising on City property that would generate revenue for core City services and to identify necessary changes to the Sign Ordinance. Budget Document 3 provides staff direction to generate general fund revenue through commercial advertising at the following specific locations in the city:

1) trash and recycling receptacles in the downtown, the Neighborhood Business Districts (NBDs) and parks;

2) public toilets in the downtown; and

3) free-standing advertising kiosks throughout the downtown core, within NBDs and at city-owned property (like the Convention Center and Mexican Heritage Plaza).

The Council also provided specific direction on sign technology (24/7 backlighting) and a desire to limit alcohol and tobacco advertising and suggests that the Arts Commission function as the review body supported by staff. The direction asks for staff to identify the necessary changes in the Sign Code to implement Council direction. Due to a pending lawsuit with another jurisdiction, staff is recommending that San Jose delay its consideration of off-site advertising. The resolution of this lawsuit, currently on appeal, should provide clearer legal guidance about maintaining a billboard ban while allowing off-site advertising on public property.

ORGANIZATION OF THIS MEMORANDUM

The summary of the recommendations and a matrix of how these recommendations affect the current regulations are contained in the Executive Summary. The rest of the memorandum and attachments present the analysis of the Department of Planning, Building and Code Enforcement, in close coordination with the City Attorney's Office, that resulted in the proposed recommendations. The Background section summarizes the following:

- Prior City Council Direction, pg. 4
- Recent Ordinance Amendments, pg. 5 to pg. 6
- Outreach Process, pg. 6 to pg. 7
- Overview of the Legal Considerations, pg. 7

The Analysis Section provides a brief presentation of the recommendations regarding four key signage categories and references a complete analysis for each category included as Attachments I-IV. The signage categories discussed in the Attachments, which are incorporated herein by this reference, are:

• Freeway Signs	Attachment I
• Electronic/Digital Signs	Attachment II
• Large Banner/Supergraphic Signs	Attachment III
• Billboards on Private Property and Off-site Advertising on City Property	Attachment IV

BACKGROUND

City Council Direction

The last comprehensive update of the Sign Ordinance, Title 23 of the San Jose Municipal Code, was adopted by the City Council in November, 1992. When the original Sign Ordinance was adopted by the City, the main concern the City wanted to address was the prevention and minimalization of visual clutter and visual blight resulting from a proliferation of signage citywide. Over the past 17 years, the Council has approved a number of revisions to the Sign Ordinance to refine and update the City's signage regulations in response to changing needs of businesses, increasingly urban development patterns, and evolving community attitudes towards signage. These incremental changes (including a number of recent amendments that have focused on the Downtown Sign Zone) have expanded signage options but have not provided a comprehensive look at signage regulation to determine how it can best support the City's additional objectives for economic development, urban design, and greater visual vibrancy in the Downtown, while continuing to balance a desire to prevent visual blight.

Initiatives for the Downtown have highlighted enhanced signage as a strategy for enlivening the streetscapes of the City's urban core and have highlighted the need for a more comprehensive review of the Sign Ordinance to better align it with the City's overall vision for the Downtown. The discussion of enhanced signage for the Downtown Sign Zone over the past few years has focused on the amount and location of signage, specific types of signage (specifically programmable display, skyline and roof signs), the notion of art as signage, and the current billboard ban. In response to these and other signage issues, the City Council included a $150,000 allocation in the 07-08 Adopted Operating Budget to fund a consultant team to assist with an update of the Sign Ordinance.

Due to time and funding constraints, staff recommended that the first phase of the update focus primarily on the Downtown Sign Zone and that it not include a comprehensive review of all of the City's sign regulations or a complete restructuring of the Sign Ordinance. On December 11, 2007, the City Council provided direction on a work plan for an initial phase of the Sign Code Update requesting that staff focus primarily on the Downtown Sign Zone, but also consider, to the extent feasible, changes to signage regulations outside of the Downtown within the Neighborhood Business Districts and in other commercial and industrial areas. The Update was to examine existing sign regulations to identify changes needed to support the City's goals for business development and a visually vibrant urban landscape, while continuing to promote attractive streetscapes free of excessive visual clutter. The Council further directed that staff do as much as possible to improve the language of the Sign Ordinance so that the regulations are clearer and more readily accessible to the business community and the public at large.

Recent Ordinance Amendments

Staff has continued over the past several years to improve the Sign Ordinance to create a vibrant city and reduce unnecessary restrictions. These changes have allowed businesses to erect a wide variety of creative sign types. Three amendments to the Sign Ordinance have been approved by the City Council since initiation of the Sign Code Update process that addressed time-sensitive issues that could not wait for completion of the Update and that expanded the ability of the business community to build better signage.

The first ordinance, adopted by the City Council on June 2, 2009, established the Stevens Creek Boulevard Signage Area (covering the south side of Stevens Creek Boulevard between Winchester Boulevard and the City Limit line) with regulations intended to allow freestanding signs in San Jose, on the south side of Stevens Creek Boulevard, commensurate in size with freestanding signs allowed in the City of Santa Clara, on the north side of the street. Based on this ordinance, auto dealers and other commercial uses within the Stevens Creek Boulevard Signage Area may display freestanding signs up to 40 feet in height and 150 square feet in sign area (per side) and may display additional freestanding signs within outdoor retail display areas. During discussion of this item, Councilmember Constant requested that the ordinance also allow freestanding signage to include programmable display signs. In response, the City Council directed staff to explore this issue further.

The second ordinance, adopted by the City Council on June 16, 2009, made changes to the provisions for vertical projecting signs in the Urban Mixed-Use Sign Zone to provide greater flexibility for such signs on major street frontages, like the one on Winchester Boulevard shown in Figure 1.

The third ordinance, adopted by the City Council on September 1, 2009, amended the regulations of the Downtown Sign Zone to allow large ground-floor commercial spaces to display attached programmable display signs up to 35 square feet in area and 25 feet above grade. This amendment was intended to allow greater flexibility for large retailers and other large ground-floor establishments, like the new Downtown Safeway, to use a limited amount of programmable display signs while the City completes a more comprehensive review of what role this type of sign should play in the Downtown Sign Zone.

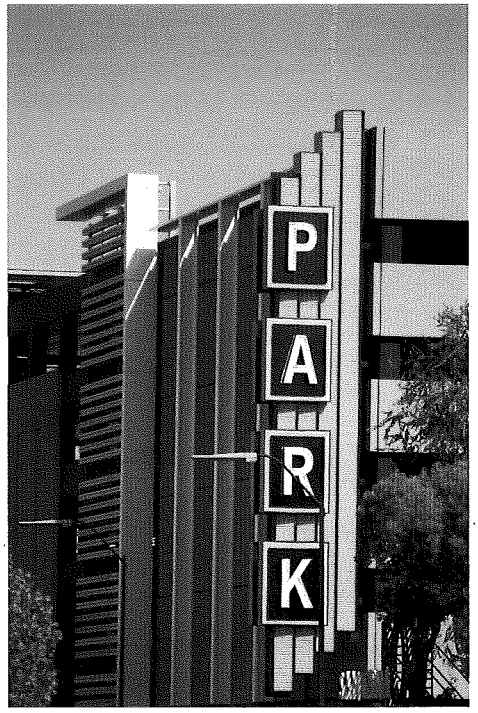


Figure 1. Santana Row Vertical Projecting Sign

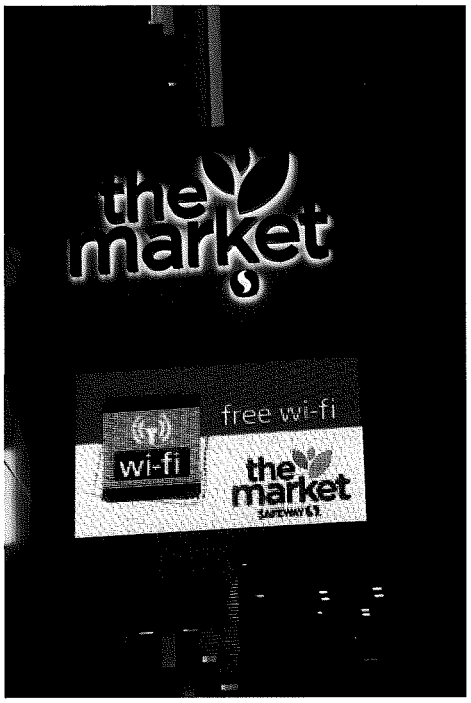


Figure 2. Programmable Display Sign at the New Downtown Safeway

Overview of the Update Process

The Sign Code Update process to this point has consisted of three primary components: staff research, general public outreach and an Internet Visual Preference Survey. These components, discussed briefly below, form the basis for the proposed preferred signage strategy presented in this report.

The research component has included information collection and analysis regarding existing signage in San Jose, review of the signage regulations of other cities, identification of Caltrans regulations applicable to off-site advertising, review of available literature regarding signage and traffic safety, consultation with other City Departments and the Redevelopment Agency regarding signage needs, and review of key legal issues in regard to signage regulation.

The public outreach component has consisted of a four-phase series of public outreach meetings initiated in March of 2009 to elicit public input regarding signage regulation in San Jose. PMC, a planning consultant firm, assisted staff with these meetings. The first phase of outreach focused on identifying signage issues to be addressed in the Update. The second and third phases explored sign preferences through visual preference materials, and the final phase considered alternative signage strategies. Each phase included two community meetings and three or four focus groups. Focus group meetings sought input from residents, business representatives, sign industry representatives and property owners. In addition, staff met with

five Strong Neighborhoods Initiative Neighborhood Action Coalitions to discuss signage preferences, and with the Chamber of Commerce and representatives of the outdoor advertising industry to elicit input on the alternative signage strategies.

The Internet Visual Preference Survey was conducted in July and August of 2009 by Fairbanks, Maslin, Maullin and Associates, a firm specializing in opinion research and public policy. This email-driven survey assessed the signage preferences of a sample of 400 San Jose residents whose demographic characteristics generally reflect those of the San Jose population as a whole. The results of the survey and summaries of the community and focus group meetings may be viewed on the City's website at http://www.sanjoseca.gov/planning/zoning/sign.asp, and are discussed in the Analysis section below.

Overview of Key Legal Considerations

Signage is a form of "speech" that is protected by the constitutions of the United States and the State of California. Prior challenges to regulations that affect the ability to communicate messages have resulted in a body of case law that establishes general principles for jurisdictions to respect and observe when seeking to regulate signs. Generally, for a signage regulation ordinance to meet constitutional standards, an ordinance must constitute a reasonable time, place and manner regulation or restriction on this type of speech. This means that the signage regulations should be limited to where, when and how signage can be installed, but should not regulate the content of the speech (in other words, generally must be content-neutral and not regulate speech based upon what message is being communicated), must serve a significant governmental interest and must leave open ample alternative channels for effectively communicating information. Courts have found that local governments do have a significant governmental interest in establishing regulations to further the aesthetics of their jurisdiction (such as the prevention of visual clutter or visual blight) and to promote and preserve traffic safety. Traffic safety signage can include traditional right of way signs (such as stop signs, yield signs, street name signs, speed limit signs, one-way traffic signs, and crosswalk signs) as well as other way-finding signage.

Because signage regulations implicate free speech principles, those regulations also must be clearly written, narrowly tailored (meaning that the regulations should not overly intrude into free speech interests) and cannot leave unfettered or unchecked discretion in the hands of a government official to determine what signage is allowed under a regulation.

Staff's initial recommendations regarding the Preferred Signage Strategy, as discussed in the Analysis section below, have been created to achieve the goal of vibrant, high quality signs while taking into consideration these legal considerations. Additional clarification regarding key legal principles applicable to specific signage parameters is provided in the Analysis section below.

ANALYSIS

Signs provide an essential form of communication in our community. They allow businesses and other organizations to announce the presence of their goods, services or activities and assist the public in understanding and locating the wide range of facilities and services available in San Jose. Signs also have the potential to add visual interest to the urban landscape and contribute to the unique character of specific neighborhoods and areas within San Jose. The purpose of this focused Sign Code Update is to revise the Sign Ordinance to reflect modern sign technology and allow more diverse types of signs and sign locations to maximize these positive benefits.

The community outreach process for the Sign Code Update confirmed that regulating signs effectively is essential to maximizing the benefits of signs. Community participants were generally very open to new sign types and locations, but also pointed out that signage can be very problematic when sign regulations are disregarded. They had observed that when sign regulations are not followed, the positive benefits of signs are often not achieved, that too many signs or poor quality signs can be confusing or result in blight.

Figure 3. Signs help us find things and can enliven the urban landscape.

Figure 4. Where sign regulations are not followed the positive benefits of signs can be diminished.

Through the Update process, staff has developed recommendations that are intended to enhance the positive contribution that signs can make to our community in facilitating way finding to goods and services or activities and enhancing the streetscape. This report provides recommendations regarding four key signage issues: 1) freeway signs, 2) electronic/digital signs, 3) large banner/supergraphic signs, and 4) billboards on private property and off-site advertising in the public right-of-way. These recommendations are summarized below. A complete analysis of each issue is provided in Attachments I-IV. Staff will bring forward a more comprehensive review of Downtown signage and a number of other recommendations for revising the Sign Ordinance on December 15, 2009.

I. Freeway Signs

Staff is recommending additional provision for attached signs along freeway frontages, elimination of restrictions on signs facing freeways and allowance for large freeway pylon signs for major shopping centers near freeways. The existing and proposed Sign Ordinance regulations are summarized in Table 1. A thorough discussion of these recommendations is provided in Attachment I, including a summary of community input, photographs of freeway signs in other communities, and an analysis of the rationale for and implications of the proposed sign regulations.

Table 1. Freeway Signs

	Current Regulations	Recommended Regulations
Signs on Freeway Frontages	• Generally, signs may not face a freeway unless there is an intervening street or driveway. • Building frontages immediately adjacent to a freeway do not qualify for attached signage.	• Eliminate restriction on signs facing freeways. • Allow building frontages on freeways to qualify for attached signage.
Freeway Signs For Large Shopping Centers	• Freeway frontages do not qualify for a freestanding sign. • Signs generally not allowed to face a freeway. • Maximum area of a freestanding shopping center sign is 120 sq. ft. and maximum height is 20 ft.	• Allow 25+ acre shopping centers located within 200 feet of a freeway to display 1 freestanding freeway sign: -Height: maximum 60 ft. -Size: maximum 400 sq. ft. -Programmable display elements may comprise up to 50% of the total sign area. -Develop parameters for traffic safety. -Allow on-site or non-commercial messages only.

II. Electronic/Digital Signs

Staff is recommending that the Sign Ordinance be revised to make additional allowance for electronic/digital signs (called programmable display signs in the Sign Ordinance) in three areas: 1) provision for larger programmable display signs in the Downtown Sign Zone on somewhat smaller occupancy frontages; 2) provision for programmable display signs as freestanding signs in a subarea of the Stevens Creek Boulevard Signage Area, in the Capitol Expressway Auto Mall Signage Area, and in the proposed Blossom Hill Road Signage Area; and 3) allowance for programmable display signs for large assembly uses on a citywide basis. A summary of the existing and proposed sign regulations for each of these categories is provided in Tables 2-4 below. A complete analysis of the recommendations is provided in Attachment II. This

analysis includes a summary of community input, information regarding the regulations of other communities, a discussion of the rationale for the proposed parameters and a summary of additional work that needs to be done to develop the specific regulations.

Table 2. Programmable Display Signs (PDS) in the Downtown Sign Zone

	Current Regulations	Recommended Regulations
Programmable Display Signs (PDS) for Large Ground-floor Spaces	• One attached PDS allowed for ground-floor occupancy frontage[1] of 150+ linear feet as follows: 1. Size: maximum 35 sq. ft.; 2. Height: maximum 25 ft.; . Can be integrated with a larger conventional sign; 4. Sign cannot be mounted on or illuminate that portion of a building containing residential living units; and 5. Cannot be mounted on or cover a window.	• Revise to allow one attached PDS for each ground-floor occupancy frontage of 100+ ft. (maximum of 2 signs), <u>or</u> one attached PDS for any ground floor occupancy with a total occupancy frontage of 150+ ft. on one or more public streets, as follows: 1. Size: maximum 50 sq. ft.; 2. Height: maximum 25 feet; 3. PDS must comprise no more than 50% of the total sign area; 4. PDS cannot be mounted on or illuminate that portion of a building containing residential living units; 5. Cannot be mounted on or cover a window; 6. Only on-site or noncommercial messages allowed; and 7. Develop parameters to address sensitive uses and traffic safety.

Table 3. Programmable Display Signs (PDS) on Stevens Creek Blvd, Capitol Expressway and Blossom Hill Road

	Current Regulations	Recommended Regulations
Programmable Display Signs on Stevens Creek Boulevard, Capitol Expressway, and Blossom Hill Road	Not currently allowed.	• Allow PDS as part of a freestanding sign in a subarea of the Stevens Creek Boulevard Signage Area, in the Capitol Auto Mall Signage Area, and in the proposed Blossom Hill Road Signage Area, for sites with a minimum frontage of 350 linear feet subject to the following parameters: • Programmable display sign must be integrated with conventional signage and comprise no more than 50% of the total sign area; • Develop parameters to address traffic safety; and • Allow on-site or non-commercial messages only.

[1] Occupancy frontage means the length of a business or other use abutting a parking lot, driveway, plaza or street.

Table 4. Programmable Display Signs (PDS) for Assembly Uses Citywide

	Current Regulations	Recommended Regulations
Programmable Display Signs for Assembly Uses in the Downtown Sign Zone and Citywide	Not currently allowed.	• Allow attached or freestanding PDS for large assembly uses with a building code occupancy of 500+ in the Downtown Sign Zone and citywide. Develop maximum area regulations based on maximum building code occupancy of the assembly area and that reflect a consideration of nearby sensitive uses. Develop parameters to address traffic safety. Allow on-site or non-commercial messages only.

III. Large Banner Signs/Supergraphics

Staff is recommending that the Sign Ordinance be revised to allow supergraphics on blank walls of buildings in the Downtown Sign Zone. Supergraphics are very large banner signs consisting of a message printed on flexible material (generally plastic-based) attached to a building with adhesive, anchor bolts or a frame structure. A summary of the existing and proposed sign regulations for supergraphics in the Downtown Sign Zone is provided in Table 5 below. A complete analysis of these recommendations is provided in Attachment III, including a summary of community input, photographs of supergraphics in other cities, information regarding the regulations of other communities, and a discussion of the rationale for the proposed parameters.

Proposed parameters for large temporary banner signs in the North San Jose and Edenvale industrial areas and at the airport will be included in subsequent recommendations.

Table 5. Large Banner Signs/Supergraphics in the Downtown Sign Zone

Category	Current Regulations	Recommended Regulations
Large Permanent Banner Signs in the Downtown Sign Zone	• Buildings with a footprint of 75,000 square feet or greater in area may display banners consistent with overall sign area limitations and the following: 1) Maximum number: 5; 2) Maximum height: 80 ft.; and 3) Size: 1 banner up to 1200 sq. ft. & up to 4 additional banners that total 600 sq. ft. or less	• Retain existing regulations

Table 5 Continued.		
Category	**Current Regulations**	**Recommended Regulations**
Temporary Signs in the Downtown Sign Zone	• Buildings with a footprint of 5,000+ sq. ft. allowed temporary signs in conformance with the following: 1) Number: 1 sign; 2) Maximum Size: 65 sq. ft.; and 3) Duration: maximum of 30 consecutive days/year. • Buildings with a footprint of 20,000+ sq. ft. allowed temporary signs in conformance with the following: 1) Number: 1 sign; 2) Maximum size:125 sq.ft.; and 3) Duration: maximum 30 consecutive days/year.	• Retain current regulations; in addition, allow one large temporary attached sign on a parcel as follows: 1) Height: Cannot extend above the cornice/parapet. 2) Size: 1,200 to 5,000 sq. ft. 3) Duration: maximum 60 consecutive days/calendar year; 4) Number: Maximum 5 in the Downtown Core at any time 5) Sign may not cover or surround windows or doors; 6) Requires a ministerial Permit Adjustment; and 7) On-site or non-commercial messages only.

IV. <u>Billboards on Private Property and Off-site Advertising on City Property</u>

Billboards

In 1985 the City Council adopted an ordinance banning new billboards in the City of San Jose. Since that time, new billboards have not been allowed except through a relocation process for existing, legal non-conforming billboards. As part of the Sign Code Update, staff has looked closely at the issue of billboards to determine if modification or elimination of the current prohibition on new billboards would better support the City's goals for business development and a vibrant urban landscape.

Attachment IV details staff's investigation of this issue and includes the following: discussion of existing City regulations for billboards, a summary of relevant state regulations, a synopsis of community input, a review of existing San Jose billboards in two San Jose census tracts, and a summary of the regulations of other cities. Based on this analysis, staff has concluded the following:

1) Staff's review of existing billboards in San Jose does not support the premise that new billboards would contribute to economic vitality or a unique, vibrant or creative urban environment;

2) San Jose residents have overall indicated a moderate level of acceptance of billboards but have indicated a strong preference for on-site signage due to its way-finding and informational benefits and its connection with local business;

3) Major cities vary in their approach to billboard regulation – San Francisco has recently banned new billboards and Los Angeles has taken action to significantly limit billboards based on recent community concerns;

4) State preemption regarding billboards means that any decision to allow new billboards has long-term implications and that options for removing billboards, once they are in place, are likely to be limited and/or expensive regardless of changes in community expectations and public policy.

Based on these considerations, staff is recommending that the City Council retain the existing billboard ban for both static and electronic/digital billboards. A full discussion of these issues is included in Appendix IV.

Off-Site Advertising on City Property

In adopting the budget for the current fiscal year, the City Council directed the Administration to explore a citywide advertising program involving off-site advertising on City property that would generate revenue for core City services and to identify necessary changes to the Sign Ordinance. Budget Document 3 provides staff direction to generate general fund revenue through commercial advertising at the following specific locations in the city:

1) trash and recycling receptacles in the downtown, the Neighborhood Business Districts (NBDs) and parks;

2) public toilets in the downtown; and

3) free-standing advertising kiosks throughout the downtown core, within NBDs and at city-owned property (like the Convention Center and Mexican Heritage Plaza).

The Council also provided specific direction on sign technology (24/7 backlighting) and a desire to limit alcohol and tobacco advertising and suggests that the Arts Commission function as the review body supported by staff. The direction asks for staff to identify the necessary changes in the Sign Code to implement Council direction.

The Sign Ordinance does not currently allow private entities to place signage in the public right-of-way. Any proposal to allow off-site commercial advertising in public right-of-way locations would require amendments to the Sign Ordinance to make provision for such signage. In response to City Council direction regarding this issue, staff conducted community outreach regarding newsracks in the public right-of-way as part of the Update process. Community response to this type of signage was generally very positive.

A lawsuit involving the signage regulations of another city is currently on appeal regarding the ability of a city to have a billboard ban while allowing off-site advertising on public property. If the Council chooses to retain the existing billboard ban for private property, the legal guidance from this appellate case would be very important to any decision to allow off-site advertising on public property. Staff is recommending that the Council retain the current regulations for billboards on private property and that the Council delay a decision regarding off-site advertising on public property until the outcome of this case can provide guidance on these two issues. The City Attorney's Office is tracking this appeal and staff will bring forward recommendations for public right-of-way signage when legal guidance resulting from the case is available.

Conclusion

The recommendations for amending the Sign Ordinance included in this report provide greater flexibility for implementation of signage in the Downtown Sign Zone and citywide and support the City's goals for business development and visually vibrant urban development, while maintaining appropriate levels of signage intensity in the Downtown and other areas to prevent excessive visual clutter.

EVALUATION AND FOLLOW-UP

Based on direction from the City Council regarding recommendations presented in this report and additional recommendations to be brought forward on December 15, 2009, staff will draft specific amendments to the Sign Ordinance. This work will entail: 1) conducting additional analysis to develop and refine detailed numeric parameters in support of the Preferred Signage Strategy; 2) developing specific ordinance language incorporating these detailed parameters into the existing Sign Ordinance; 3) recommending changes to existing ordinance language in the affected sections to improve clarity; and 4) editing the Sign Ordinance as a whole to accommodate new definitions, provide appropriate cross references and ensure consistency. Following is a brief schedule for drafting the ordinance, conducting public outreach, completing environmental review, and bringing the ordinance forward for consideration by the City Council.

Complete Draft Sign Ordinance	March 31, 2010
Hold Community Meetings	April 20-22, 2010
Complete Initial Study/Circulate Draft Negative Declaration	April 23, 2010
Present Draft Sign Ordinance to City Council	May 18, 2010

Staff will bring forward recommendations for public right-of-way signage when legal guidance from a pending lawsuit is available regarding the ability of a city to have a billboard ban while allowing off-site advertisement in the public right-of-way.

POLICY ALTERNATIVES

Following are alternatives considered in the development of the recommendations included in this report:

Alternative #1: Revise the Sign Ordinance to allow static and electronic/digital billboards in the Downtown Core Area, including the central business area and along Route 87, based on relocation of billboards from elsewhere in the City.

Pros: If a market exists for billboards in the Downtown Core Area in the locations where they are not restricted by Caltrans regulations, this alternative may encourage relocation of existing billboards from other areas of the city where they may be less desirable.

Cons: State restrictions regarding placement of billboards on landscaped freeways significantly limit the placement of billboards along Route 87and outdoor advertising representatives have indicated that traffic is insufficient elsewhere in the downtown to support billboards. Since the City generally cannot control the content of billboard messages, new billboards may not provide any way-finding benefits. Based on past experience, billboards can present an impediment to new development and cause blight and visual clutter.

Reason for not recommending: New billboards may not be feasible in the Downtown Core Area and may not achieve the City's objectives for a visually vibrant downtown while facilitating way finding to local establishments.

Alternative #2: Revise the Sign Ordinance to allow all signage to include programmable display signs in commercial and mixed use areas throughout the city.

Pros: This provision would allow businesses and other organizations to communicate messages through a more intense and flexible form of signage.

Cons: Allowing programmable display signs broadly could significantly change the visual character of existing areas and allow an intense level of signage throughout the city that has not yet been tested in the Downtown Core.

Reason for not recommending: Limiting new opportunity for programmable electronic signs to: 1) the Downtown Sign Zone; 2) a subarea of the Stevens Creek Boulevard Signage Area, the Capitol Expressway Auto Mall Signage Area, and the proposed Blossom Hill Road Signage Area; and 3) large assembly uses citywide, would allow the city to assess community acceptance of this type of signage before implementing programmable display signs more broadly.

Alternative #3: In addition to the current proposed revisions to the Sign Ordinance, undertake a comprehensive revision of the structure of the sign regulations and the format of the document to improve clarity and usability.

Pros: A more comprehensive restructuring of the Sign Ordinance regulations would allow for clarifying improvements to the document that cannot be achieved through a focused update.

Cons: A comprehensive restructuring of the Sign Ordinance would add three months to the update process.

Reason for not Recommending: There is an urgent need to provide targeted changes to the Sign Ordinance which would be delayed by a more comprehensive update.

PUBLIC OUTREACH/INTEREST

☐ **Criteria 1**: Requires Council action on the use of public funds equal to $1 million or greater.

☑ **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.

Public outreach for this proposal conforms to the City Outreach Policy. A notice of the public hearing for this item was emailed to a list of community groups, other organizations, business interests, sign industry representatives and interested individuals, and was posted on the City's website. Public outreach conducted over a five-month period included a total of 8 community meetings; 15 focus group/stakeholder meetings; meetings with 5 Strong Neighborhood Initiative groups; representatives of the outdoor advertising industry and the Chamber of Commerce; and an Internet Visual Preference Survey of San Jose residents. In addition, staff has discussed specific signage issues with numerous individuals and development representatives to obtain input regarding the proposed regulations. This staff report and attachments are available for review on the City's website.

Written comments received during the Update process are included in Attachment V. These include emails from Phil Foster and Helen Bliven of the McLaughlin Corridor Neighborhood Association expressing a preference for English language signs; an email from Phil Strong of Strong Leadership Systems pointing to sign clutter on Tully and Senter Roads and expressing a preference for English language signs; an email from Terry Kelly, of Kelly Properties, providing suggestions regarding the placement of real estate open house signs; an email from Tom Utic suggesting removal of specific billboards facing The Alameda; a letter from Les Keyak in support of the current billboard relocation provisions of the Sign Ordinance; a letter from Adam Kates of Silicon View in support of revisions to the Sign Ordinance that would allow new programmable electronic billboards without a requirement for relocation of existing billboards, and a letter from Joanie Jones expressing concern regarding potential changes to the current provisions for relocation of billboards.

COORDINATION

This project was coordinated with the City Attorney's Office, the Redevelopment Agency, the Office of Economic Development, the Department of Transportation, the Public Works Department and the Department of Parks, Recreation and Neighborhood Services.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan and City Council policies.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

Not a Project.

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

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

Attachment I: Freeway Signs
Attachment II: Electronic/Digital Signs
Attachment III: Large Banner Signs/Supergraphics
Attachment IV: Billboards on Private Property and Off-Site Advertising on City Property
Attachment V: Public Correspondence

Attachment I

Freeway Signs

Proposed Revisions to the
City of San Jose Sign Ordinance
November, 2009

Freeway Signs
Proposed Revisions to the San Jose Sign Ordinance

Existing Regulations

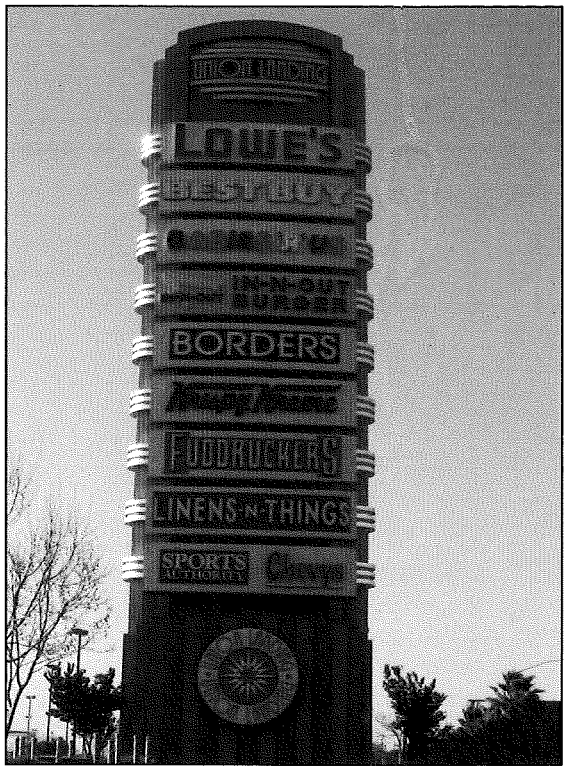
The current Sign Ordinance allows freestanding signs based on the length and number of street frontages of a developed parcel. For this purpose, "street frontage" does not include a freeway. The Ordinance allows attached signage based on building "occupancy frontages", which are frontages that abut a parking lot, street or plaza but, but not a freeway. In addition, signs are generally precluded from facing a freeway except where a street, parking lot or plaza is located between the parcel and the freeway. These regulations prevent many businesses adjacent to freeways from implementing freeway-oriented signage and do not allow the large "pylon" shopping center freeways signs that are visible along Bay Area freeways in other cities (see Figure 1 for examples). This has raised concern that San Jose businesses in general, and major shopping centers in particular, do not have adequate means to identify their location and the types of goods and services they offer to passing motorists.

Community Input

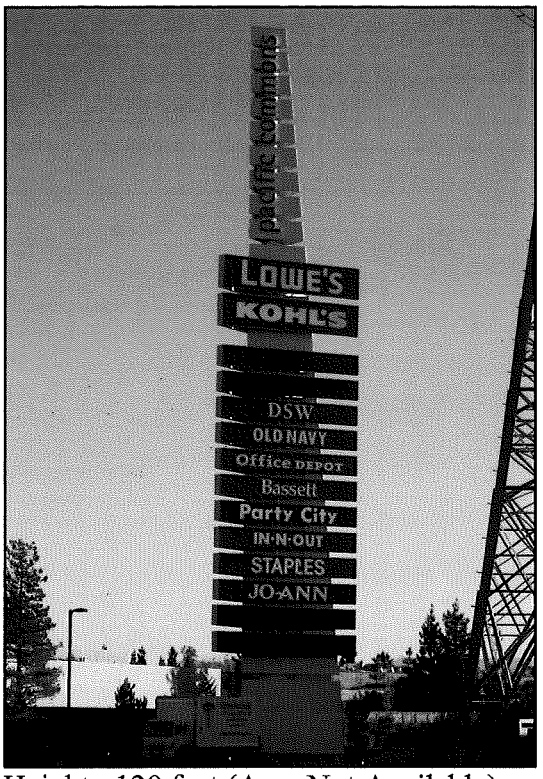
The issue of large pylon signs for shopping centers was discussed extensively in the public outreach process. Although some participants felt these signs were unnecessary, or unsightly, the overall response to this type of large shopping center sign was positive. People pointed to the way-finding benefits of shopping center signs in identifying not only the location of the center, but also the major tenants. In viewing a variety of photographs of large pylon shopping center signs located in other California cities, participants expressed preferences for signs that can be read clearly and that include creative design features. Responses to electronic/digital pylon signs were slightly more positive overall than responses to static pylon signs.

The Internet Visual Preference Survey indicated a strong acceptance of freeway pylon signs for shopping centers. A majority of respondents, 54%, found them completely acceptable (rating them 7 on a scale of one to seven) and 70% found them largely acceptable. The survey showed slightly different results for digital pylon signs than the community outreach meetings. When asked to choose between side-by-side photographs of static and digital signs, 50% preferred the static sign as compared to 38% who favored the digital sign (the Serramonte sign as shown in Figure 1).

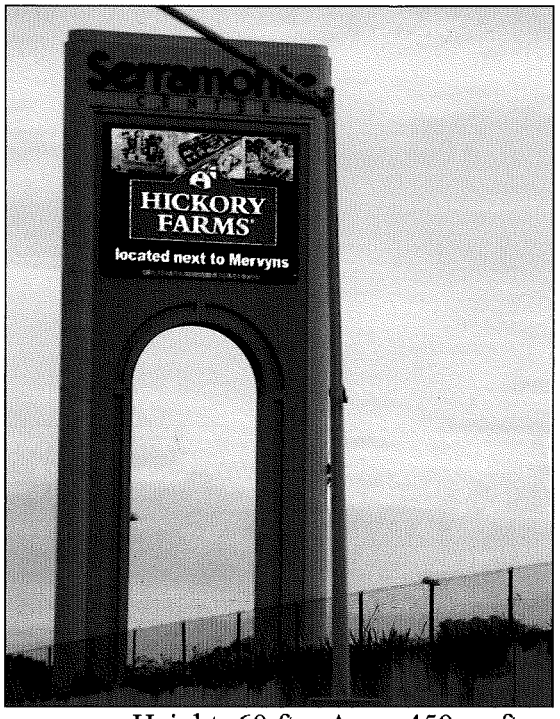
Both the Internet Survey and the community outreach discussions indicated a strong general preference for on-site signage (signage that provides information about what is available at a specific location) over off-site signage. Community residents and business representatives pointed to the practical way-finding benefits of on-site signage and the benefits such signage provides to local businesses. Representatives of large San Jose retailers also indicated a preference for on-site advertising, suggesting that a sign operated by a shopping center for the benefit of the center would promote quality signage and effective maintenance.



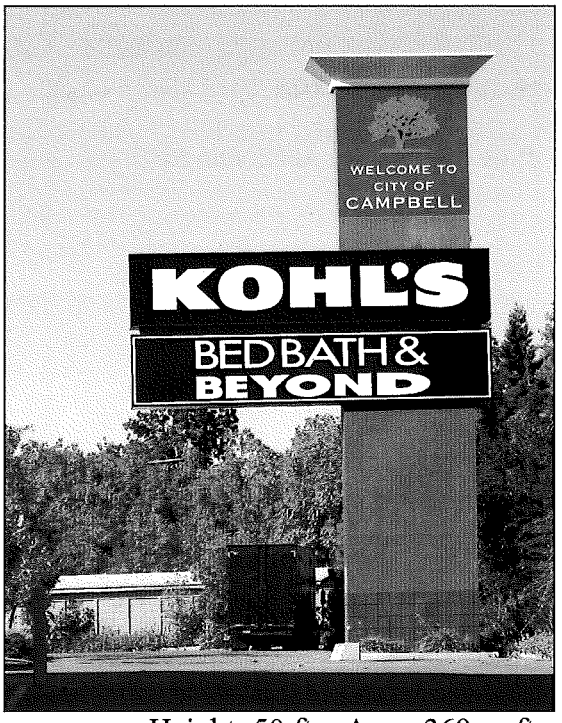
Height: 100 ft. Area: Approx. 1,100 sq.ft.



Height: 120 feet (Area Not Available)



Height: 60 ft. Area: 450 sq.ft.



Height: 50 ft. Area: 360 sq.ft.

Figure 1. Freeway (Pylon) Signs

Analysis and Recommendation

As summarized in Table 1, staff is recommending that the Sign Ordinance be revised to allow greater flexibility for way-finding signs along freeways. Existing San Jose businesses and new businesses seeking to relocate to San Jose have provided strong feedback regarding the importance of signs that identify their business location to adjacent freeway travelers. The proposed revisions seek to address this concern by eliminating the restriction on signs facing a freeway and ensuring that building frontages located immediately adjacent to a freeway qualify for signage. These provisions will allow all buildings adjacent to a freeway to display signage similar to what is currently allowed for properties separated from the freeway by a parking lot or driveway, provided that such signage conforms to all other provisions of the Sign Ordinance and to state regulations. Generally, state regulations prohibit off-site advertising within 660 feet of, or within view of, a landscaped freeway. More information regarding state requirements for signage proximate to a freeway is provided in Attachment IV.

Table 1. Freeway Signs

	Current Regulations	Recommended Regulations
Signs on Freeway Frontages	• Generally, signs may not face a freeway unless there is an intervening street or driveway. • Building frontages immediately adjacent to a freeway do not qualify for attached signage.	• Eliminate restriction on signs facing freeways. • Allow building frontages on freeways to qualify for attached signage.
Freeway Signs For Large Shopping Centers	• Freeway frontages do not qualify for a freestanding sign. • Signs generally not allowed to face a freeway. • Maximum area of a freestanding shopping center sign is 120 sq. ft. and maximum height is 20 ft.	• Allow 25+ acre shopping centers located within 200 feet of a freeway to display one freestanding sign oriented to the freeway: -Height: maximum 60 ft. -Size: maximum 400 sq. ft. ; -Programmable display elements may comprise up to 50% of the total sign area. -Develop parameters for traffic safety. -Allow on-site or non-commercial messages only.

Staff is recommending that shopping centers of 25 contiguous acres or more in size that are located within 200 linear feet of a freeway, be allowed one large freestanding sign with a maximum area of 400 square feet and a height of 60 feet. These dimensions allow signs at large sites near freeways at a scale that is proportional to the site area and appropriate to the freeway location (such signs might overwhelm a smaller local street). As indicated in Table 2, there are four shopping centers (three existing and one planned)

that are 25 acres or more in size and located within 200 feet of a freeway which would qualify for a freeway sign under the proposed regulations.

The proposed regulations for pylon signs provide a moderate level of signage for large shopping centers proximate to a freeway. Such shopping centers typically include multiple retail establishments, so that signage is needed to identify both the shopping center location and the presence of specific retail establishments located in the center. The proposed 400 square-foot maximum size for these signs is intended serve this function at a scale that is readable from the freeway. The maximum height of 60 feet ensures that the sign's height is proportionate to its area and that it is clearly visible from the freeway.

The proposed provision for a programmable display component provides for a more efficient use of sign area by allowing messages to be shown sequentially rather than simultaneously, a factor that participants in the public outreach meetings felt would reduce clutter by eliminating the need for multiple static messages. The more visually intense nature of programmable display signage provides an appropriate level of way finding for these larger commercial sites. The programmable display portion of the sign is proposed to be limited to no more than 50% of the total sign area to ensure that the sign includes appropriate design features and a permanent way-finding component for the shopping center.

Table 2. Criteria for Freeway Signs Applied to Existing Shopping Centers

Name	Cross Streets	Within 200 ft. of a Freeway?	25 Acres+? /Acres
Almaden Fashion Plaza	Almaden / Blossom Hill	Yes	Yes (26)
Eastridge	Tully / Capitol	No	Yes (103)
El Paseo De Saratoga	Hamilton/Saratoga	No	Yes (32)
Market Center	Coleman /Taylor	No	Yes (33)
Oakridge Mall	Blossom Hill/Santa Teresa	Yes	Yes (48)
Plaza De San Jose	Story/King	No	No (15)
Princeton Plaza	Blossom Hill/Meridian	No	No (14)
Santana Row	Stevens Creek/Winchester	No	Yes (42)
The Plant	Curtner/Monterey	No	Yes (55)
Tropicana Center	Story/King	No	Yes (26)
Valley Fair	Stevens Creek/Winchester	Yes	Yes (71)
Westgate Mall	Hamilton/Saratoga	No	Yes (42)
@ First Center[1]	N.1st Street/Holger Way	Yes	Yes (26)

[1] This shopping center is approved but not yet constructed.

Staff is recommending that the proposed shopping center pylon signs be limited to on-site messages based on three considerations. First, community input generally indicated a strong preference for on-site signage and specifically suggested that the value of a freeway pylon sign lies in its way-finding function (i.e., in its ability to let passing motorists know what is available at that location). Second, the courts have supported the ability of local sign regulations to distinguish between on- and off-site sign messages due to the unique way-finding function that on-site signage serves. Third, the proposal to limit shopping center signs to on-site messages is consistent with Caltrans regulations which preclude off-site advertising near or within view of a landscaped freeway. As indicated in Figure 1 of Attachment IV, most of the freeway mileage in San Jose is classified as "landscaped".

Programmable display signs along a freeway will need to be located and regulated so that they do not result in unsafe levels of driver distraction. Additional information regarding digital freeway signs and traffic safety is included in Attachment IV. Should the Council direct staff to incorporate the proposed shopping center signs into the Sign Ordinance, staff will work with the Department of Transportation to develop parameters for their location and operation to ensure that they are implemented in a manner that takes into account and does not negatively impact traffic safety.

Conclusion

The proposed changes to the Sign Ordinance allowing large freeway signs for a limited number of major shopping centers and providing greater flexibility for attached signs along freeway frontages further the City's objectives for successful commercial businesses and visually vibrant development while providing appropriate parameters to ensure that these signs do not result in negative impacts.

Attachment II

Electronic/Digital Signs

Proposed Revisions to the
City of San Jose Sign Ordinance
November, 2009

Electronic/Digital Signs
Proposed Revisions to the City of San Jose Sign Ordinance

Existing Regulations

Currently, the Sign Ordinance allows "programmable display signs" (otherwise know as electronic/digital signs or LED signs) on a limited basis. They are allowed in the Downtown Sign Zone for buildings with a footprint of 125,000 square feet or greater, on large ground-floor occupancy frontages, as part of a theater marquee, on a freestanding kiosk located in a private walkway or plaza or as a small time and temperature sign component of an otherwise allowed sign. 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 is an example of a theater that includes a programmable display marquee. There are currently no programmable display kiosks in the Downtown Sign Zone. The new downtown Safeway in The 88 recently installed a sign that includes a programmable display element (approximately 31 square feet in area) that reflects the recently adopted provisions for programmable display signs for large ground-floor spaces in the Downtown Sign Zone.

Currently, programmable display signs are allowed outside the Downtown Sign Zone in the Airport and Urban Mixed-Use Sign Zones or as a small time and temperature component of a freestanding sign. With the exception of theaters in the Downtown Sign Zone, which can have programmable display marquees, very large assembly facilities in the Downtown Sign Zone like the HP Pavilion and the Convention Center, which may also display these signs, assembly uses are not allowed to display programmable display signs.

Regulations of Other Santa Clara County Cities

Table 1 summarizes the sign regulations for electronic/digital in other Santa Clara County cities. Approximately half of the cities currently allow electronic/digital signs. In Gilroy, such signs can be implemented broadly in all commercial zoning districts. Campbell, Mountain View, and Sunnyvale allow electronic/digital signs for assembly uses only (churches, theaters and places of entertainment). Cupertino allows them for shopping centers and large retailers. Morgan Hill allows electronic/digital signs only along Highway 101 for auto dealer uses. Staff from the City of Milpitas have indicated that such signs are currently allowed on a limited

basis, but that the City is considering ordinance amendments to allow them along freeways.

Table 1. Sign Regulations for Digital Signs in Other Santa Clara County Cities

Jurisdiction	Sign Regulations
Campbell	• Allowed for churches, theaters and places of entertainment with two hundred or more fixed seats. -Size: 1sq.ft/ linear foot of business frontage (maximum 50 sq.ft) -Maximum Height: 14 ft.
Cupertino	• Allowed for shopping centers and large commercial retailers -Size: 1sq.ft/ 4 feet of street frontage (maximum 100 sq.ft.) -Maximum Height: 8 ft.
Gilroy	• Allowed in Commercial Zoning Districts subject to size and height limitations otherwise applicable to signage.
Los Altos	• Not allowed.
Los Altos Hills	• Not allowed.
Los Gatos	• Not allowed.
Milpitas	• Allowed on a limited basis. City is in the process of amending the sign ordinance to allow freeway electronic signs.
Monte Sereno	• Not allowed.
Morgan Hill	• Allowed along 101 for Auto Dealer Uses.
Mountain View	• Allowed for churches, theaters and places of entertainment.
Palo Alto	• Not allowed except for time and temperature signs.
Saratoga	• Not allowed.
Santa Clara	• Not allowed.
Sunnyvale	• Allowed for churches, theaters and places of entertainment. - Size varies by zoning district between 20 and 40 sq.ft.

Community Input Regarding Electronic Signs

Community members who participated in the outreach process were generally open to the concept of greater provision in the Sign Ordinance for digital/electronic signs. In the Phase IV community and focus group meetings, staff presented four possible alternatives for electronic/digital signs (other than billboards): 1) retain the current regulations; 2) allow electronic/digital signs for assembly uses; 3) allow programmable display signs along major commercial streets; and 4) allow programmable display signs for large ground-floor spaces in the Downtown Sign Zone. All of the proposed options limited electronic/digital signs for commercial messages to on-site messages.

In community discussions regarding the four options, electronic signs for assembly uses garnered the strongest support. People indicated that it made sense for these types of uses to be able to communicate the location and timing of changing events

and programs through an electronic/digital sign that provided for changeable messages.
This is consistent with input from prior outreach phases, where electronic digital signs for assembly uses, especially theaters and sports stadiums, received very positive responses.

Support for electronic/digital signs for large ground-floor spaces in the Downtown Sign Zone was also fairly strong; supporters indicated that electronic signs, due to their intensity, would be most appropriate in the Downtown Core Area. Others expressed concern that electronic/digital signs and associated light and glare might conflict with the new mixed-use development the City is encouraging in the "Downtown.

The response regarding digital signs on major streets was slightly more mixed, although there were few strong negative responses. Some expressed concern that these signs would be distracting to drivers and undesirable from a visual and energy use standpoint. Representatives of the outdoor advertising industry stated that they opposed options that allowed for additional electronic signage because such signage would compete with their advertising facilities.

The Internet Visual Preference Survey asked respondents to indicate their reaction to electronic/digital signs on a scale of 1 to 7, 1 being not at all acceptable and 7 being completely acceptable. Photographs of signs for assembly uses, including an electronic sign at the Oracle Arena and a smaller electronic sign at a church, received the highest mean scores, 5.7 for the arena sign and 4.6 for the church sign. Responses to photographs of digital signs on large commercial streets and in the downtown were slightly lower but still above neutral, ranging from 4.2 to 4.4.

Overall, the responses of younger residents to all of the digital signs presented in the survey were more positive than those of older residents. The overall mean score for digital signs (including digital billboards) for the 18-29 age group was 4.6 compared with 3.7 for the 50-64 age group and 3.5 for age 65 and over. The responses of the intervening age groups, 30-39 and 40-49, with mean scores of 4.4 and 4.3, respectively indicate a consistent pattern; as age increases responses to electronic/digital signs are less positive. Additionally, people who indicated they visited Downtown San Jose on a frequent basis were more accepting of digital signs than those who virtually never visit Downtown.

Analysis and Recommendation

Electronic/digital signage[1] is the most visually intense form of signage due to its potential to display variations in light and color, movement, and changeable messages. These signs have the capability of displaying a wide variety of changeable messages including art displays, commercial advertisements, political or

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[1] The Sign Ordinance refers to electronic/digital signs as "programmable display signs".

religious statements, and directional information. Such signs are generally very successful in attracting and holding viewer attention due to their brightness and the expectation of new messages to come. Due to their visual intensity, electronic/digital signs can greatly influence the visual character of the urban environment.

Staff's proposed strategy for electronic/digital signs seeks to provide greater flexibility for the use of these signs in locations and in a manner that maximizes their benefits to the community and avoids potential impacts. This strategy includes provisions for additional electronic/digital signs in the 1) Downtown Sign Zone; 2) in a proposed subarea of the Stevens Creek Boulevard Signage Area, in the Capitol Expressway Auto Mall Signage Area; and in the proposed Blossom Hill Road Signage Area; and 3) for large assembly uses citywide. Parameters for each of these proposals will need to include provisions to ensure that the signs are located and operated in a manner that does not adversely impact traffic safety. Staff's recommendations are discussed below.

Programmable Display Signs for Large Ground-floor Uses in the Downtown Sign Zone

The Downtown Core Area is the City's most intense urban area and has historically been considered the area of the City where the most intense level of signage is proposed and tolerated. This is the area where staff is recommending that electronic/digital signage be focused. Even in the Downtown Core, where greater visual intensity is typically proposed, staff has carefully considered the size, location and frequency of digital/electronic signs to ensure that the proposed signage is appropriate for a mixed-use neighborhood where permanent residents live in close proximity to commercial establishments and entertainment venues.

In August, when the Council adopted an ordinance allowing programmable display signs for large ground-floor spaces in the Downtown Sign Zone, staff recommended that this issue be reexamined through the update process. Staff is now recommending several modifications to the previously adopted provisions, as indicated in Table 2.

The proposed parameters provide some greater flexibility for use of programmable display signs in the Downtown Sign Zone by reducing the frontage requirements and increasing the allowed area of the sign. They include additional restrictions limiting programmable display signs to on-site commercial or non-commercial messages and requiring that any programmable display sign be incorporated into a larger conventional sign to ensure that programmable display signs for ground-floor uses serve a way-finding function for uses on the site and include appropriate design features so that the sign does not consist entirely of a rectangular digital screen.

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 thought 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. Despite these generally positive traffic conditions, staff proposes to develop regulations for the operation of the signs in regard to light intensity, frequency of message change, hours of operation and other factors that will minimize driver distraction and ensure that signs do not impose light and glare impacts on proximate residential uses.

Table 2. Programmable Display Signs for Large Ground-Floor Spaces in the Downtown

	Current Regulations	Recommended Regulations
Programmable Display Signs (PDS) for Large Bldgs.	• One programmable display sign (PDS) allowed for buildings with a footprint of 125,000+ sq. ft. Two PDSs allowed for buildings with a footprint of 175,000+ sq. ft.	• Replace with provision for programmable display signs (PDSs) for assembly uses in the Downtown Sign Zone and citywide (see Table 9 for these proposed regulations).
Programmable Display Kiosk Signs	• PDSs allowed on kiosks located on a private sidewalk or plaza subject to a maximum height of 8 ft. and a maximum area of 18 sq. ft. per side.	• Retain existing regulations.
Programmable Display Signs for Large Ground-floor spaces	• One attached PDS allowed for ground-floor occupancy frontage[2] of 150+ linear feet as follows: 1. Size: maximum 35 sq. ft.; 2. Height: maximum 25 ft.; 3. Can be integrated with a larger conventional sign; 4. Sign cannot be mounted on or illuminate that portion of a building containing residential living units; and 5. Cannot be mounted on or cover a window.	• Revise to allow one attached PDS for each ground-floor occupancy frontage of 100+ ft. (maximum of 2 signs), <u>or</u> one attached PDS for any ground floor occupancy with a total occupancy frontage of 150+ ft. on one or more public streets, as follows: 1. Size: maximum of 50 sq. ft.; 2. Height: maximum 25 feet; 3. PDS must comprise no more than 50% of the total sign area; 4. PDS cannot be mounted on or illuminate that portion of a building containing residential living units; 5. Cannot be mounted on or cover a window; 6. Only on-site or noncommercial messages allowed; and 7. Develop parameters to address nearby residential uses and traffic safety.

[2] Occupancy frontage means the length of a business or other use abutting a parking lot, driveway, plaza or street.

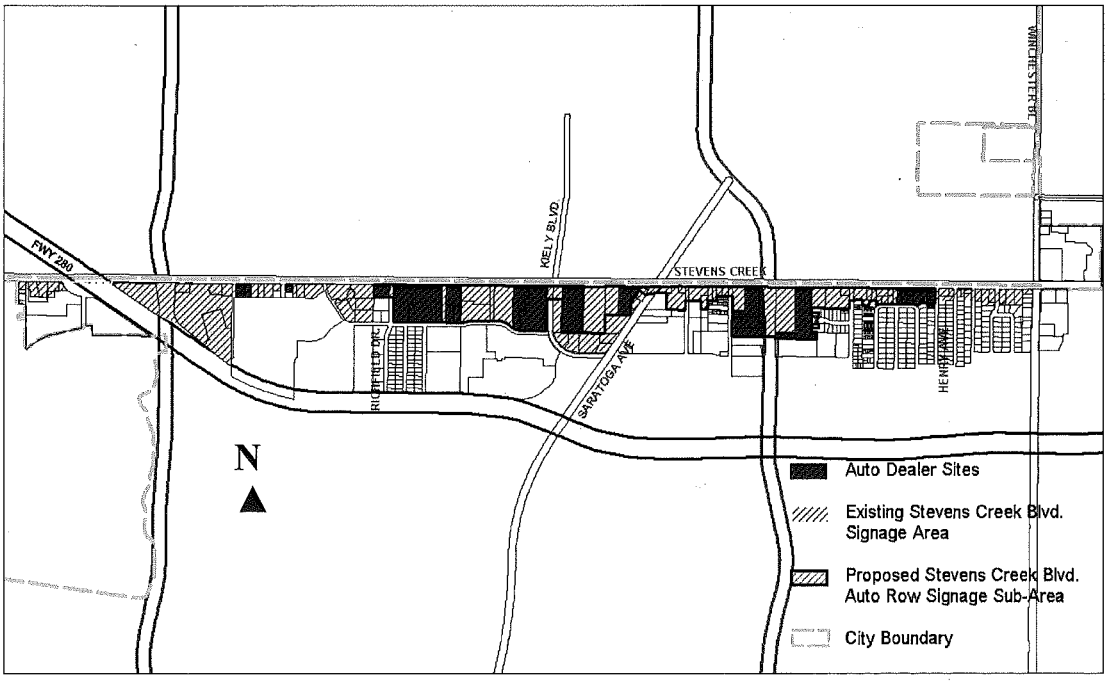
In summary, this proposal expands the provisions for use of programmable display signs in the Downtown Sign Zone consistent with the City's goal of enlivening the Downtown Core Area with vibrant signage, while avoiding light and glare impacts on residential uses and ensuring that the signs are operated in a manner that minimizes driver distraction.

Programmable Display Signs: Stevens Creek Boulevard, Capitol Expressway and Blossom Hill Road Commercial Areas

Based on City Council direction, staff has explored options for allowing programmable display signs within the Stevens Creek Boulevard Signage Area and is recommending that programmable display signage be allowed as a freestanding sign element for large sites (based on street frontage) located within a subarea of the Stevens Creek Signage Area. For qualifying sites, one freestanding sign would be allowed to include programmable display signage in an integrated design comprising up to 50% of the total area of the sign, subject to current Sign Ordinance parameters regarding total sign height and area.

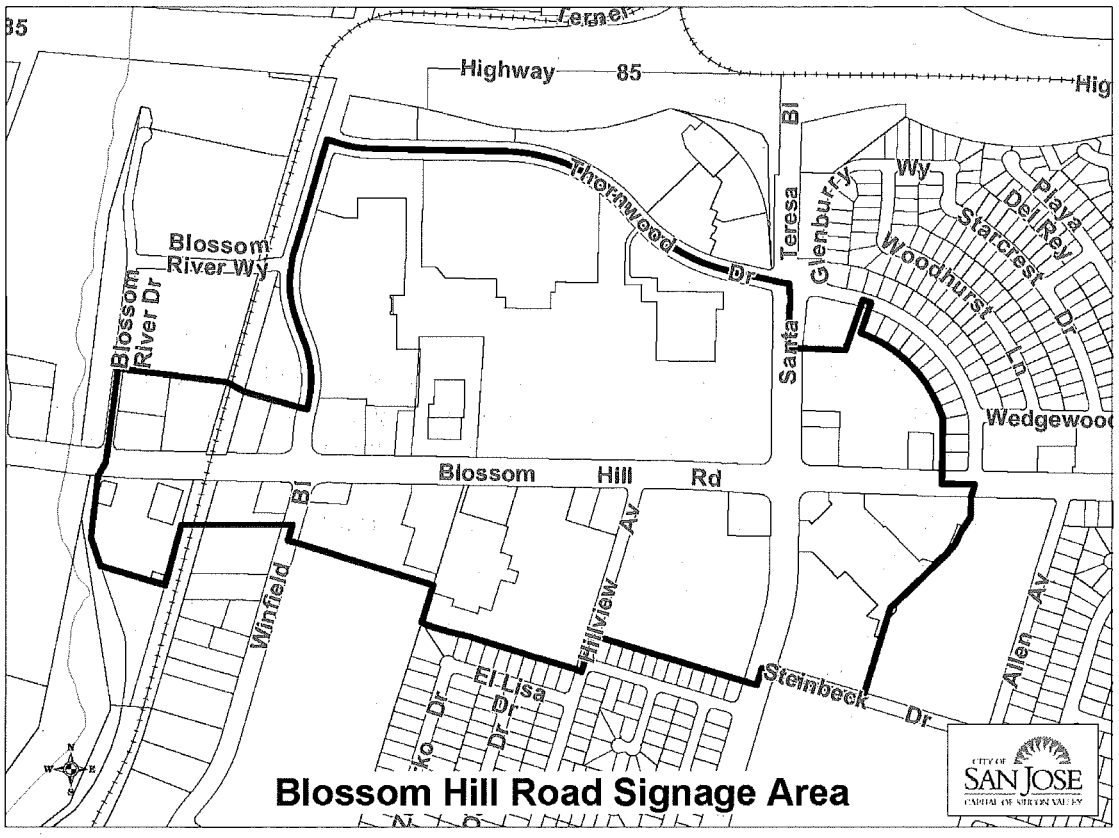
The proposed subarea (see Figure 1) includes a major commercial street with a concentration of large lots with wide frontages and a cluster of similar retail uses where the greater visual intensity of programmable display signs would be appropriate to the scale of the large streets and concentration of large lots with a uniformity of retail sites.

Figure 1. Stevens Creek Boulevard Signage Area and Proposed Subarea



If the Council chooses to allow programmable display signs for the proposed Stevens Creek Boulevard Signage Subarea, staff recommends that the same provisions be applied to the Capitol Expressway Auto Mall Signage Area and to Blossom Hill Road from Blossom River Drive to just east of Snell Avenue, because those areas also include a concentration of large lots with wide frontages and a concentration of similar retail uses. The proposal for Blossom Hill would require creation of a new Blossom Hill Road Signage Subarea, the proposed boundaries of which are shown in Figure 2.

Figure 2. Proposed Blossom Hill Signage Area



Map Prepared by: City of San Jose, Planning Division, November 2009

Within these three areas, staff is recommending that programmable display signs of up to 50% of the total sign area be allowed for sites with a minimum frontage on Stevens Creek Boulevard, Capitol Expressway, or Blossom Hill Road of 350 linear feet. Table 3 estimates the number of sites that would qualify for programmable display signage under this proposal. Staff estimates that these parameters would allow up to four programmable display signs in the Stevens Creek Auto Row Signage Subarea; up to eleven such signs in the Capitol Auto Row Signage Area; and up to seven such signs in the Blossom Hill Road Signage Area. Based on current sign parameters, the maximum size of a programmable display sign would be 75 square feet in the Stevens Creek Boulevard Signage Subarea and 60 square feet in the Capitol Expressway and Blossom Hill Signage Areas. Staff is proposing that

programmable display signs not be allowed on frontages of the smaller commercial streets within the two sign zones since this more intense form of signage is appropriately focused on the very wide larger sites located on central streets of these signage areas.

Table 3. Estimated Number of Sites Eligible for a Programmable Display Sign

	Proposed Stevens Creek Blvd. Signage Subarea	Capitol Ex. Auto Mall Signage Area	Proposed Blossom Hill Road Signage Area
No. Eligible Sites [3]	4	11	7

Staff is recommending that the proposed parameters include requirements that programmable display signage on a freestanding sign be integrated with conventional signage in a unified design, that only on-site or non-commercial messages be allowed, and that parameters be developed for the location and operation of the signs to address the issue of potential driver distraction. Table 4 provides a summary of the existing and proposed parameters.

Should the Council choose to include these recommendations in the strategy for revising the Sign Ordinance, staff recommends that additional focused outreach be conducted in the areas surrounding the three sign zones to gain additional input regarding proposed sign parameters, once specific ordinance language is developed.

Table 4. Programmable Display Signs in Stevens Creek Boulevard and Capitol Auto Mall Signage Areas

	Current Regulations	**Recommended Regulations**
Programmable Display Signs in the Proposed Stevens Creek Boulevard Signage Subarea, the Capitol Auto Mall Signage Area and the Proposed Blossom Hill Road Signage Area	Not currently allowed.	• Allow programmable display signs as part of a freestanding sign in the proposed Stevens Creek Boulevard Auto Row Signage Subarea, the Capitol Auto Mall Signage Area and the proposed Blossom Hill Road Signage Area for sites with a minimum frontage of 350 linear feet subject to the following parameters: • Programmable display sign must be integrated with conventional signage and comprise no more than 50% of the total sign area. • Develop parameters to address traffic safety. Allow on-site or non-commercial messages only.

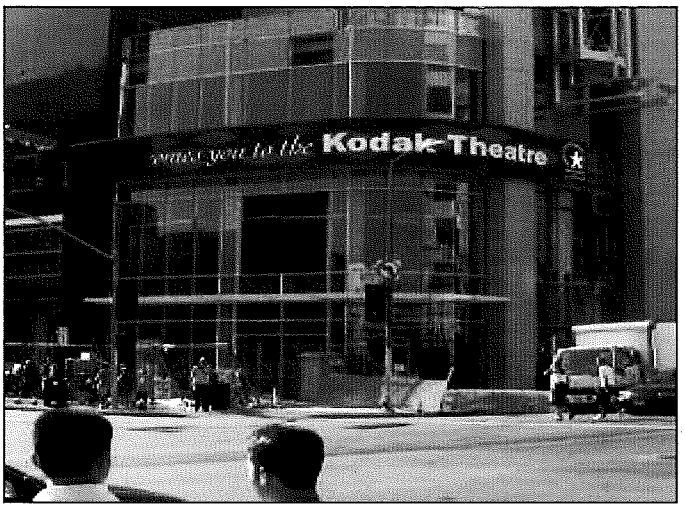
[3] Based on site frontage of 350 linear ft or more.

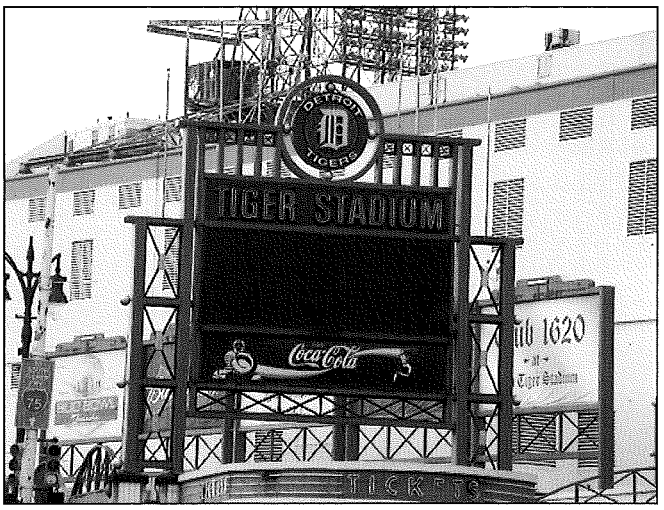
Programmable Display Signs for Assembly Uses Citywide
Staff is proposing that the preferred signage strategy include provisions that allow attached or freestanding programmable display signs for large assembly uses, i.e., those with a maximum building code occupancy of 500 people or greater (in a single assembly space). This proposal is summarized in Table 5. Large assembly uses, which attract significant numbers of people for specific changing events and activities, have unique signage needs. Signs for these uses (which could include theaters, churches, schools, stadiums, community centers and similar facilities) provide a way-finding and informational function that helps people to locate a specific event or activity at a specific time. Assembly uses like theaters and churches have traditionally used changeable copy signs to achieve this way-finding purpose. Programmable display signs provide a more visually intense form of changeable message signage that is appropriate to the needs of large assembly uses seeking to attract large numbers of people to specific events. Figure 2 shows examples of programmable display signs for various assembly uses.

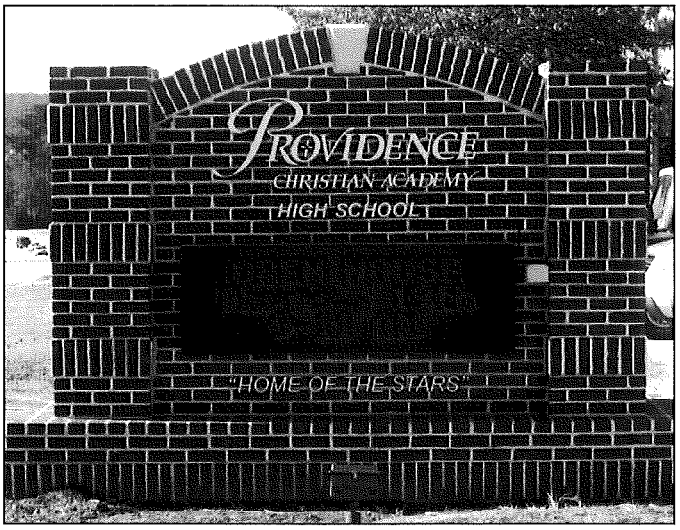
Table 5. Programmable Display Signs for Assembly Uses Citywide

	Current Regulations	Recommended Regulations
Programmable Display Signs for Assembly Uses in the Downtown Sign Zone and Citywide	Not currently allowed.	• Allow attached or freestanding PDS for large assembly uses with a building code occupancy of 500+ in the Downtown Sign Zone and citywide. Develop maximum area regulations based on maximum building code occupancy of the assembly area and that reflect a consideration of nearby sensitive uses. Develop parameters to address traffic safety. Allow on-site or non-commercial messages only.

Within the Downtown Sign Zone, the current Sign Ordinance provisions allow programmable display signs only for very large assembly uses like the Convention Center and the HP Pavilion. The proposed regulations will continue to allow such signs for these very large assembly uses, but also allow programmable display signs to be implemented for any assembly use with a building occupancy of at least 500 persons (in a single assembly area), including churches, theaters, nightclubs and schools. Staff anticipates that the proposed provision would result in a greater intensity of signage in the Downtown due to the relative concentration of assembly uses in this area, but that the more dispersed location of assembly uses in the remainder of the City will mitigate against concentrations of more intense signage in any one area.







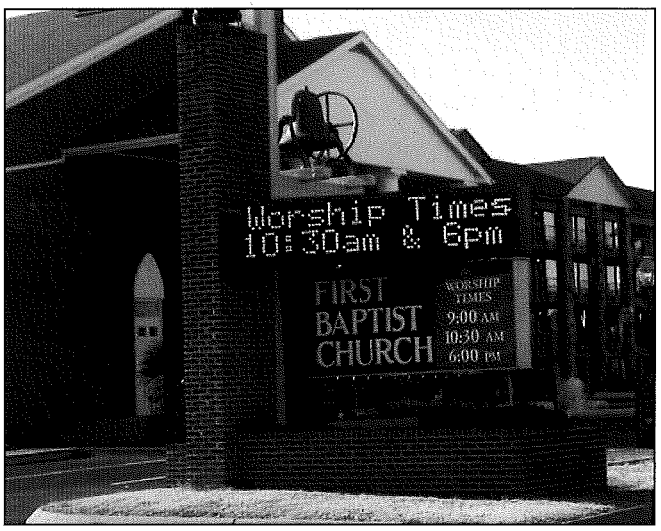


Figure 2: Programmable Display Signs for Assembly Uses

Consistent with case law allowing cities the ability to regulate off-site signage more stringently than on-site and non-commercial signage, these programmable display signs are proposed to be limited to on-site or noncommercial messages. Staff has not yet developed specific parameters for the size, height and location of these signs. The intent is to base allowed sign area on occupancy size categories. Because assembly uses are located on a variety of street types and are sometimes located in residential areas, parameters should include measures that address context and ensure that signage can be allowed in a manner that does not adversely impact traffic safety issues or nearby sensitive uses (such as residential living areas). Staff is seeking input from the Council regarding this proposal to allow programmable signs for assembly uses citywide. Should the Council direct staff to pursue an ordinance implementing this proposal, additional outreach will be needed to obtain community input regarding specific parameters for implementing these signs.

Conclusion

Staff's recommendations regarding programmable display signs promote the broader use of these signs in amounts and locations that support the City's goals for urban design and successful commercial businesses and provide an opportunity to test community acceptance and impacts of this more visually intense form of signage in the already more visually dense areas of the city.

Attachment III

Large Banner Signs/Supergraphics

Proposed Revisions to the
City of San Jose Sign Ordinance
November, 2009

Large Banner Signs/Supergraphics
Proposed Revisions to the City of San Jose Sign Ordinance

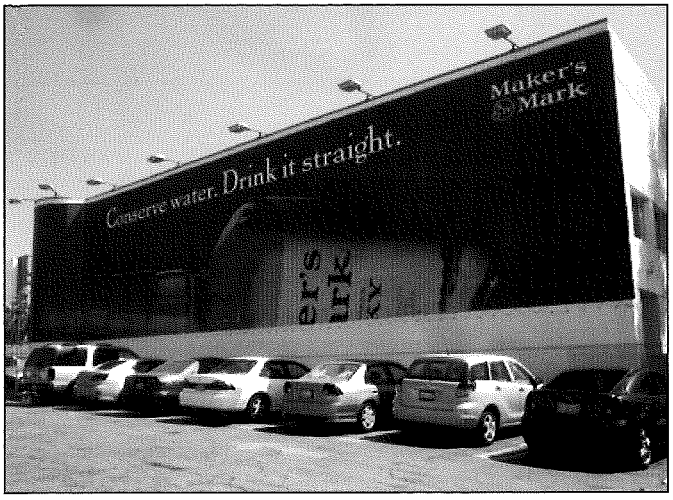
Supergraphics are very large signs consisting of a message printed on flexible material (generally plastic-based) attached to a building with adhesive, anchor bolts or a frame structure. Supergraphics can be limited to on-site or non-commercial messages or can provide off-site advertising. Although much larger than a traditional billboard, supergraphics can function like a billboard where an outdoor advertising company leases a building façade, sells the advertising space and changes the message periodically. Figure 1 shows examples of supergraphic displays.

Existing Regulations

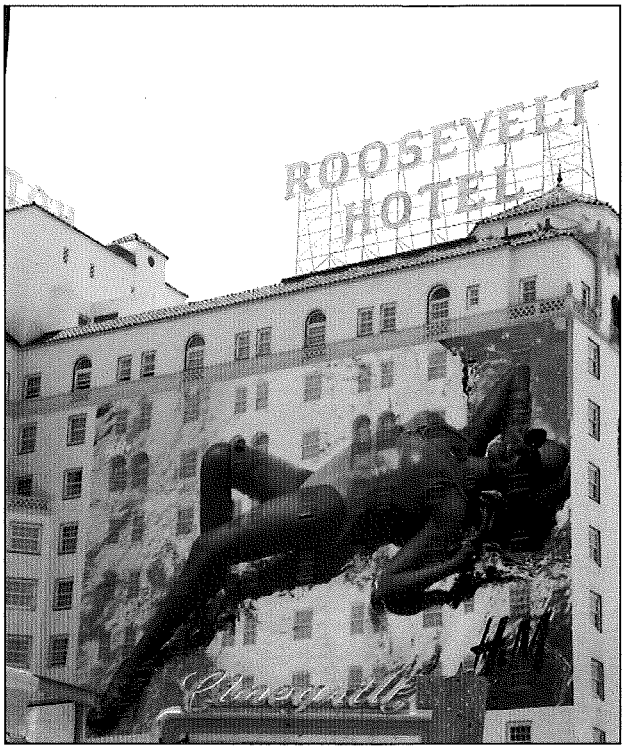
The current Sign Ordinance does not define "supergraphic" as an allowed sign category, as these are a relatively new signage medium. Supergraphics do not fit into the "billboard" definition in that they generally exceed the maximum dimensions of a billboard (14 feet by 48 feet), but would fall within the general category of a "banner sign". A banner sign is defined as "...a sign on cloth or other flexible material which projects from a building, pole or wire". Buildings in the Downtown Sign Zone with a footprint of 75,000 square feet or greater may display up to 5 permanent banners, one of which may be up to 1,200 square feet in area; which is smaller than a typical supergraphic sign. The current banner sign provision does not allow off-site commercial messages. Very few buildings in the Downtown Sign Zone meet the minimum size qualifications for a 1,200 square-foot banner sign.

Public Input Regarding Supergraphics

The response to supergraphic images in the community and focus group meetings was generally positive; however, participants very consistently expressed negative reactions to supergraphic signs that covered windows and doors, or were located on historic buildings. Objections to signs covering windows were based on concern that such signs replace a building's architecture and block natural light and views that would otherwise be available to building occupants. Supergraphic signs on walls without windows, which are often fairly unadorned facades, were more well-received; many participants indicated that the signs were more interesting than the empty wall, although some concern was expressed that such signs should not face residential uses. Representatives of the outdoor advertising companies expressed a strong interest in regulations allowing supergraphic signs on buildings facing Route 87, including buildings with windows.



Supergraphics on Blank Walls



Supergraphics Covering Windows

Figure 1: Examples of Supergraphic Displays

The Internet Visual Preference Survey results were similar. On a scale of 1 to 7, 1 being not at all acceptable, and 7 being completely acceptable, the mean score for responses to a supergraphic image on the blank wall of a building in Downtown San Jose was 4.8, well on the positive side. In contrast, the mean score for an image of a supergraphic sign covering the windows of a building was 3.3, and the mean score for a sign mounted on an historic building was 3.4. These latter scores were the lowest mean scores for any of the images in the survey.

Regulations of Other Cities for Supergraphics

Table 1 provides a summary of the regulations of other large cities in regard to large "supergraphic" signs/billboards. Los Angeles has recently taken measures to preclude supergrahic signs. San Franciso does not allow off-site advertising but does allow large building-mounted banners for on-site messages. New York City, Columbus, Dallas and West Hollywood allow them subject to various parameters. Seattle allows them with on-site messages only. Regulations include limits on minimum and maximum size, total number of signs; length of sign display, and placement.

Table 1. Supergraphic Regulations of Major U.S. Cities.

City	Summary of Regulations
San Francisco	As result of a 2002 ballot measure, San Francisco does not allow off-site advertising signs, but allows large banners for on-site advertising.
Los Angeles	Based on revised regulations approved in August of 2009, Los Angeles does not allow supergraphics.
Times Square New York	Supergraphic signs allowed without limitation on size, number or duration.
Dallas	Allows supergraphic signs in a downtown sign zone in four size categories ranging between a maximum of 5,000 and 20,000 square feet for four consecutive months per calendar year. The number of signs is limited by category with a total limit of 19 signs. Signs may not cover windows or architectural features.
Columbus	Allows temporary supergraphic signs in the downtown area. Size limited by size of wall. No limit on number of signs. Signs allowed on blank walls only.
West Hollywood	Allows supergraphics with a minimum size of 5,000 sq.ft. and no maximum size. Signs may cover windows. Duration is 6 months, or 1 year with an extension.
Seattle	Allows supergraphics as permanent signs in the downtown with on-site messages only. Size is not limited. Height is limited to 65 feet.

Analysis and Recommendation

Staff is recommending that supergraphics be allowed in the Downtown Sign Zone as temporary signs on blank walls of buildings. The Downtown is the city's most visually intensive signage area where large colorful images have potential to add visual interest and enliven otherwise blank facades. As indicated in Table 2, this proposal would allow up to five temporary signs at any one time on the blank walls of buildings within the Downtown Sign Zone, regardless of the size of the building footprint, for a period of up to 60 consecutive days in any calendar year. Staff is recommending a minimum sign area of 1,200 square feet and a maximum area of 5,000 square feet; within these parameters, the sign would be allowed to entirely cover a building wall, so long as it does not cover or surround windows or doors.

Table 2. Large Flat-Mounted Banner Signs in the Downtown Sign Zone

	Current Regulations	Recommended Regulations
Large Permanent Banner Signs	• Buildings with a footprint of 75,000 square feet or greater in area may display banners consistent with overall sign area limitations and the following: 1) Maximum number: 5; 2) Maximum height: 80 ft.; 3) Size: 1 banner up to 1200 sq. ft. & up to 4 additional banners that total 600 sq. ft. or less	• Retain existing regulations
Temporary Signs	• Buildings with a footprint of 5,000+ sq. ft. allowed temporary signs in conformance with the following: 1) Number: 1 sign; 2) Maximum Size: 65 sq. ft.; 3) Duration: maximum of 30 consecutive days/year. • Buildings with a footprint of 20,000+ sq. ft. allowed temporary signs in conformance with the following: 1) Number: 1 sign; 2) Maximum size:125 sq.ft. 3) Duration: maximum 30 consecutive days/year.	• Retain current regulations; revise to allow large temporary attached signs in the Downtown Sign Zone as follows: 1) Height: Cannot extend above the cornice/parapet. 2) Size: 1,200 to 5,000 sq. ft. 3) Duration: maximum 60 consecutive days/calendar year; 4) Number: Maximum 5 in the Downtown Core at any time 5) Sign may not cover or surround windows or doors; and 6) Requires a Permit Adjustment. 7) On-site or non-commercial messages only.

This provision would allow property owners greater opportunity for large-scale signage on a temporary basis to accommodate an art display, announce an upcoming event, display a corporate logo, or advertise an on-site product, while including appropriate limitations to ensure that signs do not impact historic resources, replace building architecture, or obscure windows. The proposal to limit the signs to on-site advertising or non-commercial messages would allow signs that serve a way-finding function for businesses and activities at that location and ensure that a property owner or building tenant plays a role in determining the type of message displayed and takes responsibility for maintaining the sign. The on-site advertising provision is also consistent with Caltrans regulations which preclude off-site advertising near or within view of a landscaped freeway. See pages 2-4 of Attachment IV for more information regarding state regulations for off-site advertising proximate to a freeway.

Staff's recommendations to allow large temporary banner signs on the blank walls of buildings in the Downtown Sign Zone offers the potential to enliven the Downtown Core with creative signs and art displays in a manner that supports local businesses, does not replace building architecture or obscure windows and ensures that such signs can be located proximate to State Route 87 in a manner that is consistent with Caltrans requirements.

Conclusion

Staff's recommendation for supergraphic signs in the Downtown Sign Zone supports the City's goals for a more visually vibrant downtown and provides expanded opportunity for local businesses and organizations to advertise events or products on a temporary basis.

Attachment IV

Billboards on Private Property
&
Off-Site Advertising on City Property

An Assessment of City of San Jose
Sign Ordinance Regulations

Billboards on Private Property and Off-site Advertising on City Property An Assessment of City of San Jose Sign Ordinance Regulations

Billboards

Existing City of San Jose Regulations and Policies

Zoning Ordinance. In 1985 the City Council adopted an ordinance banning new billboards in San Jose. At that time, staff estimated that there were approximately 600 billboards in the City; those that had been legally implemented became legal nonconforming when the ban was adopted. The Council subsequently adopted an ordinance allowing for relocation of legal nonconforming billboards elsewhere in the City, subject to specific parameters. The stated purpose of the ordinance was to provide a mechanism for relocating billboards away from specific areas the City was seeking to revitalize and beautify, including the Downtown Core Area, major thoroughfares leading into the Downtown Core, Redevelopment Areas, and Neighborhood Business Districts. The parameters for billboard relocation in the current Sign Ordinance continue to discourage location of billboards in these areas or within 600 linear feet of residential property, and preclude them within 660 feet of any landscaped freeway. The Council later adopted provisions allowing billboard companies the ability to apply for an increase in the height of a legal nonconforming billboard in exchange for removal of other legal nonconforming billboards in the city. Table 1 summarizes the billboard regulations included in the current Sign Ordinance.

Council Policy 6-4; Billboards on City-Owned Land, was adopted by the City Council in 1971 to set the standard for community development by discontinuing the use of billboards on City-owned property (see Attachment A). The Policy specifies that all existing billboards on City-owned land should be removed within a period of five years. The City's real estate staff have indicated that they are aware of only two remaining billboards on City-owned property. Based on Council Policy 6-4, when the leases for these billboards come up for renewal, the City administration will send termination notices and seek removal of the billboards.

Table 1. Current Sign Ordinance Regulations for Billboards

	Current Sign Ordinance Regulations
New Billboards	• New billboards not allowed.
Exist2ng Billboards	• Existing legal-nonconforming billboards may remain, subject to the legal nonconforming provisions of Part 3 of the Sign Ordinance.
Billboard Relocation	• Billboard relocation allowed through a Planned Development Zoning subject to: 1) Height: Maximum of 36 ft. 2) Size: Maximum of 700 square feet. 3) Separation Requirement: Relocated billboard not allowed within 660 ft. of a landscaped freeway or 600 feet of any residential property. Not allowed in a Redevelopment Area, a Neighborhood Business District or any area subject to a specific program for beautification or utility undergrounding.
Billboard Height Increase	• Alteration in the height of an existing legal nonconforming billboard allowed through a contract approved by the City Council and a Sign Permit Adjustment approved by the Director, in exchange for removal of other legal non-conforming billboards in the City. Maximum height for a relocated billboard is 50 feet.

San Jose 2020 General Plan Urban Design Policy No. 9. This policy specifies that new billboards should be allowed only under Planned Development Zoning and only where they do not create visual clutter and blight, and that the relocation of existing billboards from impacted areas to areas where they would have a less visually blighting effect should be encouraged.

Caltrans Regulations

The California Business and Professional Code sets forth regulations for off-site advertising displays (billboards, supergraphics or other signs that include off-site advertising) located within 660 feet of, or visible from, an interstate or primary highway. The legislation specifies that local jurisdictions may adopt more stringent regulations. The State regulations, administered by Caltrans through a permit process, include size and height limitations, separation requirements, and traffic safety parameters. They limit freeway landscaping within 500 feet of an existing billboard and preclude the location of new billboards on landscaped freeways. Figure 1 shows the freeway segments in San Jose that are considered "landscaped" based on Caltrans criteria. Through the Downtown Core Area, Route 87 is entirely landscaped except for a short segment extending from Coleman Avenue on the north to approximately 150 feet south of Bassett Street. Due to residential development on the east side of the freeway at this location, it is likely that Caltrans standards would allow no more than a single billboard along Route 87 through the Downtown Core.

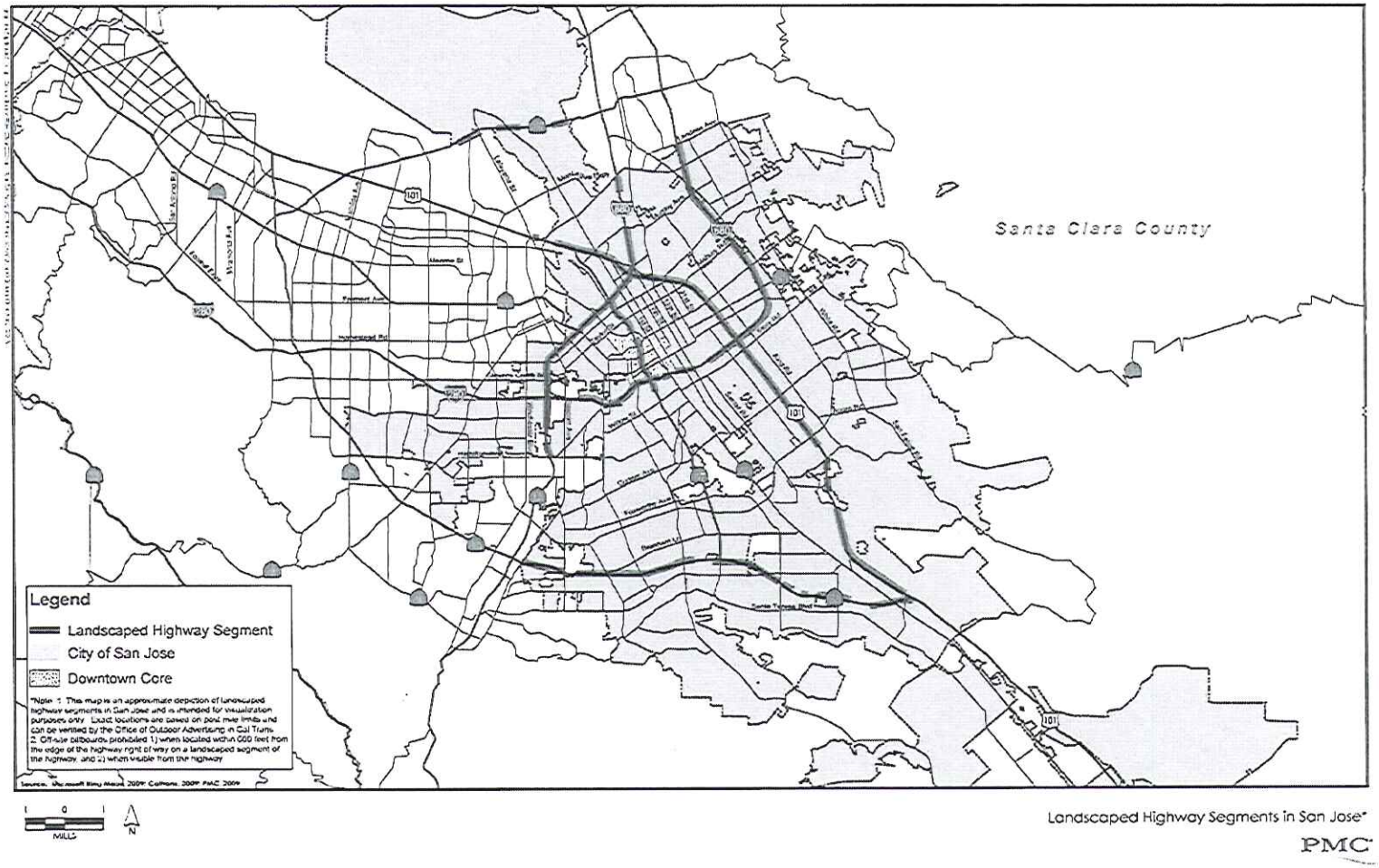


Figure 1. Landscaped Freeways

The segment of State Route 280 which forms the southerly boundary of the Downtown Core Area, is also a landscaped freeway except for two short segments. The area along these freeway segments that is eligible for billboards would also be limited by residential uses.

Billboard Analysis and Recommendation

In assessing whether new billboards should be allowed in the Downtown Core Area or elsewhere in San Jose, staff has considered five key issues: 1) the role of existing billboards in San Jose, 2) community input regarding billboards and on-site versus off-site signage, 3) community response to the Internet Visual Preference Survey, 3) state regulations limiting local control over billboards, 4) regulations of other major cities, and 5) traffic safety considerations. These issues are discussed below:

Contribution of Existing Billboards

A primary purpose of the Sign Code Update is to reassess the City's sign regulations to ensure that they support business development and promote an interesting and visually vibrant urban landscape, while maintaining a sensitivity to concerns pertaining to visual clutter or visual blight. In order to assess the role of billboards in achieving these signage goals, staff has looked closely at existing billboards in two San Jose census tracts, 5001.00 in Council District 3 and 5031.030 in Council District 7. Figure 2 shows the location of these census tracts.

On-site signs are ancillary to the businesses to which they are attached and help people understand what services, goods and amenities are available in San Jose and in their local neighborhoods and assist persons in locating those businesses. Billboards are a separate business and use of the site; billboards typically convey little or no way-finding purpose or benefits. In order to better understand what way-finding purpose billboards might serve, staff inventoried the messages displayed on billboards in the two identified census tracts during the week of July 13-17 in order to ascertain whether billboards assist motorists or other persons in locating businesses on the site or in the area. Photos of the billboards are included in Appendix A and available at: http://www.sanjoseca.gov/planning/zoning/signs/Billboards_in_TwoSanJoseCensusTracts.pdf.

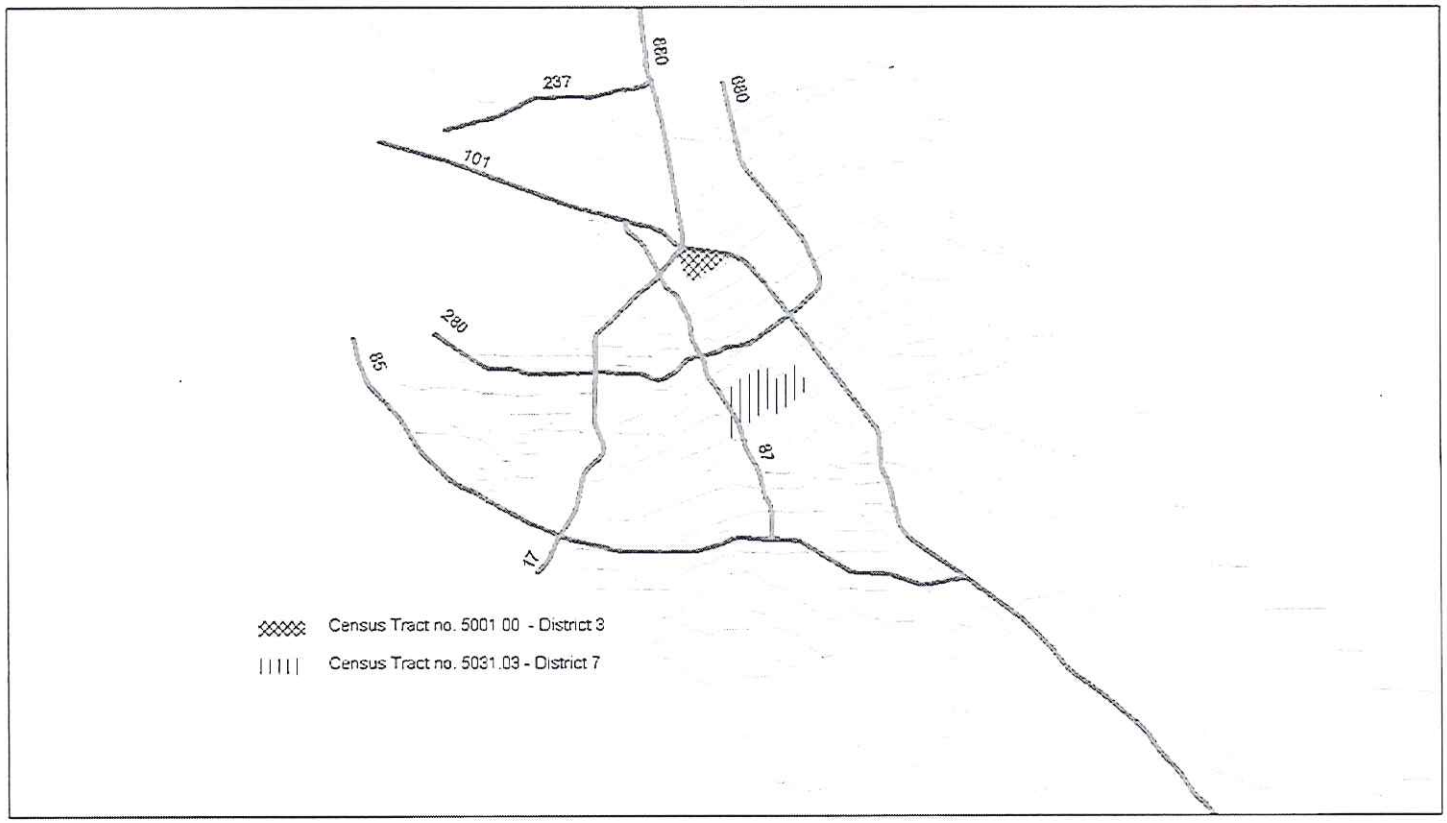


Figure 2 Census Tracts 5001.00 & 5031.03

Map Created On:
9/16/2009

Prepared by the Department of Planning, Building, and Code Enforcement
City of San Jose, California

Joseph Horwedel, Director

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Table 2 indicates the number of billboards recorded in each census tract and the total number of message faces. Two-sided billboards with messages on each side have two billboard faces.

Table 2. Billboards in Two San Jose Census Tracts

	Census Tract 5001.00 Council District 3	Census Tract 5031.03 Council District 7
Total No. Billboards	20	45
No. Billboards Reviewed	20	45
Total No. Billboards Faces	30	63
No. Billboard Faces Reviewed	28[1]	63

Table 3. Billboards by Message Category in Two San Jose Census Tracts

	Census Tract 5001.00 Council District 3		Census Tract 5031.03 Council District 7	
Message Category	No. Billboard Faces	Percent of Total Billboard Faces	No. Billboard Faces	Percent of Billboard Faces
Alcohol	9	32%	17	27%
Soda/Fast Food	1	4%	5	8%
Movie/Media	5	18%	9	14%
Public Service	2	7%	18	29%
No Message	1	4%	3	5%
Other	10	36%	10	16%
Total[2]	28	101%	63	101%

Table 3 summarizes the types of messages displayed on these billboards. Only one of the billboard faces advertises a business located on the site. Alcohol advertisements unrelated to a specific business or site were the subject of approximately one-third of the billboard faces in the District 3 census tract and just over one-quarter of the billboard faces in the District 7 census tract. Public service advertisements comprise a significant portion (29%) of the messages in the District 7 census tract, but are less prominent in the District 3 census tract. According to representatives of the outdoor advertising industry, public service messages are generally displayed on billboards when there are no paid advertisements for the space. Soda/fast food and movie/media advertisements represented a notable percentage of the messages in one or both census tracts. Between 4% and 5% of the billboard faces in both census tracts displayed no message; they were either completely blank or the message was in such poor condition that it could not be read. This review highlights the fact that the City has no control over what messages are displayed on billboards and that billboards almost never assist motorists or others in locating a business at or near the billboard site.

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[1] In Census Tract 5001.00, staff was unable to photograph one side of two billboards due to their orientation to the freeway; these billboard faces were not reviewed for message or condition.
[2] Percent does not total 100 due to rounding.

Signs play a significant role in the visual environment of a city in that they are prominent structures that are typically, and deliberately, highly visible in the public realm. Billboards are more prominent than most other signs due to their size and height. A review of the billboards in the two study census tracts indicates that the billboard structures themselves, like their messages, are generally unrelated to the local setting. Unlike way-finding signs for local businesses, which often reflect the architectural design of the building or the character of the neighborhood, billboard structures in these census tracts are for the most part awkwardly placed, do not relate to the buildings or sites they occupy and look much the same in any given location. When poorly maintained, their visual effect is significantly negative. Table 4 summarizes the condition of the billboards faces in the two study census tracts during the week of July 13-17. In the District 3 census tract, one- quarter of the total billboard faces were in poor condition (including ripped or tattered message surfaces or graffiti) and the condition of billboards in the District 7 census tract was only marginally better.

Table 4. Billboard Condition in Two San Jose Census Tracts

	Census Tract 5001.00		**Census Tract 5031.03**	
Condition	No. Billboard Faces	% of Billboard Faces	No. Billboard Faces	% of Billboard Faces
Good[3]	21	75%	50	79%
Poor[4]	7	25%	13	21%
Total	28	100%	63	100%

It is likely that new billboards would differ in some respects from those reviewed in the two study census tracts. They may include more modern structures and may be better maintained than the existing examples, at least in the near term. Nevertheless, the review of existing billboards highlights several important considerations that would likely apply to new billboards. First, the primary purpose of a billboard is not to assist persons in finding their way to local businesses, direct customers to specific goods and services located on the site or in the neighborhood, or enhance the unique physical qualities of a local community through compatible or complementary architecture. Secondly, from a visual standpoint, there is no guarantee that billboards will introduce creativity or vibrancy to the urban landscape. Currently, these signs display messages for a relatively narrow range of products in the same structural format in multiple locations, contributing to a visual sameness that makes one intersection, look like the next regardless of the neighborhood or city. Finally, there appears to be no guarantee that billboards will be maintained over time in a manner that will prevent their becoming focal points of community blight. Based on this analysis, staff concludes that existing billboards in San Jose do not support the premise that new billboards would contribute to economic vitality or a unique, vibrant or creative urban environment. Additional photographs of billboards throughout the City can be viewed at http://www.sanjoseca.gov/planning/zoning/BillBoard_Album.asp.

[3] Condition rated "good" if message surface is intact and there is no graffiti.
[4] Condition rated "poor" if some or all of the message surface is ripped or if billboard is defaced by graffiti.

Public Input Regarding Billboards

Billboards were a primary topic of discussion throughout the public outreach process for the Sign Code Update. Community opinions on the subject of billboards varied greatly and were at times diverse even within the focus groups. Those with favorable views of billboards emphasized their importance in promoting general commerce, generating revenue for a property owner and enlivening the City. Others viewed billboards less favorably and expressed concern that new billboards in San Jose would not create the kind of visual image or landscape that would attract people to the City; that tree lined streets would be a more attractive image for the City than billboards. Overall, there was general acceptance of billboards in the Downtown Core Area. In regard to digital billboards, some participants saw them as a positive "high tech" form of advertising that is more attractive than the traditional billboard. Others expressed concern regarding potential light and glare and traffic safety impacts, and pointed to the experience of residential neighborhoods impacted by large digital billboards in Los Angeles. Persistent themes throughout the outreach meetings included concern that billboards do not benefit local businesses, especially small businesses, and a general preference for on-site information versus off-site advertising. Explanations regarding this preference pointed to the benefits of on-site signage for local businesses and the practical way-finding and informational benefits of these signs.

In the final round of outreach, staff presented the following four billboard alternatives for static billboards and electronic/digital billboards: 1) retain existing regulations; 2) allow large signs in the Downtown for on-site information and way-finding purposes; 3) allow new billboards in the central business area of the Downtown Core through relocation from other areas of the City; and 4) allow billboards in the central area of the Downtown Core and along State Route 87 in the Downtown Core through relocation from other areas. Following is a brief summary of the community responses.

- *Community Meetings*. Community opinions were split; preferences tended towards Alternative 1 and Alternative 4 for both conventional and digital billboards.

- *Sign Industry Focus Group and Outdoor Advertising Focus Group.* Participants were generally supportive of Alternative 4 for both conventional and electronic/digital billboards. The outdoor advertising companies expressed strong interest in locating billboards along State Route 87 and suggested that they be allowed along freeways citywide. One major outdoor advertising company indicated they would not be interested in locating billboards in Downtown San Jose, except along the freeways, because there was not sufficient traffic or visibility. Some indicated that billboard relocation would be more feasible if the Sign Ordinance did not require property owner approval for relocation of a billboard from an existing site. The outdoor advertising representatives generally viewed digital billboards as the wave of the future for effective and efficient advertising.

- *Business Community Focus Group.* Responses of this group to the alternatives for both conventional and electronic/digital billboards were split. Some business representatives indicated that billboards should be allowed in the Downtown Core and along Route 87. Others felt that the current regulations should be retained, or preferred the option of large on-site signs in the Downtown. One focus group participant, who supported billboards, did not agree that relocation should be required.

- *Property Owner Focus Group and Resident Focus Group.* Participants preferred Alternative 4. (Attendance was small - one and two participants, respectively).

Internet Visual Preference Survey

The Internet Visual Preference Survey asked respondents to rate static images of billboards in various locations Downtown and along Route 87 and a video of a digital billboard, on a scale of 1 to 7, one being not acceptable at all and 7 being completely acceptable. The resulting mean scores for most billboard images were above the neutral score of 4 (ranging between 4.2 and 5.1) indicating a general level of acceptance of this type of sign. The only exception was an image of a billboard on an historic building, which received a mean score of 3.7.

The billboard video clip (showing the operation of a digital sign located at the entrance to the Bay Bridge) received a mean acceptability score of 4.2, slightly above the neutral score of 4.0. Nevertheless, when asked to choose between two pairs of still (non-video) images of billboards, one static and one digital, the respondents preferred the digital billboards over the static (by a 2 to 1 margin in one case). In general, respondents who viewed digital billboards as largely acceptable tended to be younger people, especially young men who visit downtown frequently and who have lived in San Jose less than 10 years. In contrast, respondents who found digital billboards to be unacceptable tended to be older, long-term residents who did not visit downtown frequently.

Despite the relatively positive overall acceptability rating for billboards, respondents indicated a strong preference for on-site signage. Images of a traditional pylon sign advertising a shopping center received a mean score of 5.9 and 70% of respondents rated the sign at the high end of the acceptability scale. When asked to indicate their preference between two side-by-side images of a billboard on the side of a parking structure, one of which displayed an on-site message, the other an off-site message, 78% preferred the on-site message (52% indicated a strong preference and 26% said they "somewhat preferred" the on-site message), 7% preferred the off-site message, and 16% had no preference. This response is consistent with the feedback staff has received throughout the public outreach process, that signage providing on-site information is clearly preferred over off-site signage.

Billboard Regulations of Other Cities

Table 5 provides a brief summary of the billboard regulations of other major cities. This review indicates that the regulations of major cities vary in regard to billboard regulations. Some allow them in specific areas; others significantly restrict or preclude new billboards. It is notable that two major California cities, San Francisco and Los Angeles have recently taken steps to ban or significantly limit allowance for new billboards based on community opposition to the proliferation of these signs.

Table 5. Billboard Regulations of Major U.S. Cities.

City	Summary of Regulations
San Francisco	In 2002 the voters of San Francisco approved a ballot measure banning all new billboard construction in the city with the second highest proposition victory margin in history (79.3%). In 2001 the Board of Supervisors adopted legislation tightening billboard code enforcement.
Los Angeles	After a legal settlement gave billboard companies the right to modernize approximately 800 existing billboards in Los Angeles (i.e. convert to electronic/digital billboards), community outcry resulted in revisions to the City's sign regulations to tightened restrictions on billboards and digital display signs, eliminate the distinction between on-site and off-site advertising and reduced levels of allowed signage citywide. The staff report for the ordinance change states that "... in much of the city, signage is both overwhelming and monotonous, filling the visual environment with the same clutter from one neighborhood to the next, obscuring the true character of the city's neighborhoods".
New York	Billboards allowed within certain zoning districts with dimensions varying by district. Digital billboards are restricted to special districts. Outdoor advertising companies are required to register their entire inventories before engaging in outdoor advertising.
Minneapolis	Billboards allowed by right in the Downtown Entertainment Billboard District and the General Billboard District. Billboards allowed elsewhere only through relocation of an existing billboard. Digital Billboards allowed in specific districts, subject to specific controls.
Seattle	Billboards allowed through relocation/reconstruction only, subject to limits on the number of such relocations or reconstructions per year.
Cincinnati	Billboards allowed only through relocation of existing billboards.
Denver	Billboards allowed only when an existing billboard or combination of billboards of equal size are removed.

Traffic Safety Considerations

The purpose of a sign is to attract the attention of passersby in order to convey a message. Signs along roadways seek to attract the attention of drivers raising the concern that signs may divert driver attention. This is a particular concern for electronic/digital signs that include messages that change or move. Such signs must meet appropriate design criteria to address safety concerns. In assessing this issue, staff has reviewed two resources: 1) a report commissioned and administered by the American Association of State Highway and Transportation Officials: "Safety Impacts of Emerging Digital Display Technology for Outdoor Advertising Signs", which can be viewed at http://www.scenic.org/pdfs/NCHRP%20Digital%20Billboard%20Report.pdf; and 2) a study conducted by the Federal Highway Administration in 2009: "The Possible Effect of Commercial Electronic Variable Message Signs (CEVMS) on Driving Safety – Phase I, which may be viewed at http://www.fhwa.dot.gov/realestate/cevms.htm.

American Association of Highway Transportation Official (AASHTO)Report; Safety Impact of the Emerging Digital Display Technology for Outdoor Advertising Signs. The objective of the report, commissioned by the American Association of State Highway and Transportation Officials (AASHTO) was to provide guidance for State Departments of Transportation and other highway operating agencies with respect to the safety implications of digital display technology used for outdoor advertising signs. The report involved a literature review of relevant studies, including those conducted by the outdoor advertising industry, a peer review, and recommended guidance related to the safety aspects of digital display technology. The conclusions of the literature review include the following:

- The research sponsored by the outdoor advertising industry generally concludes that there are no adverse impacts from roadside digital billboards, even when, in one case, the actual finding of such research indicates otherwise; and
- The research of government agencies, insurance companies and auto safety organizations regularly demonstrate that the presence of roadside advertising signs such as digital billboards contributes to driver distraction at levels that adversely affect safe driving performance.

The AASHTO report provides guidelines for regulating electronic/digital signs intended to minimize their potential adverse traffic safety impacts. These guidelines include recommendations for the following:

- Placement of signs away from driver decision points, such as exits and merge lanes, and traffic control devices, such as signs and signals;
- Minimum duration of message display based on sight distance and speed limit;
- Minimum distance between electronic/digital signs;

- Limitations on special effects during message change (such as fade, dissolve or animation);
- Prohibition regarding message sequencing (i.e., breaking a message into two or more successive display phases of a single sign or two or more signs as in the manner of the old Burma Shave messages) in a manner that prolongs the duration that eyes must be diverted from the roadway;
- Limitations on the amount and type of information displayed (limitations on type of information including phone numbers, internet addresses and text message instructions that may spur drivers to slow to read, record or copy information);
- Luminance levels; and
- Annual operating permits.

Federal Highway Administration Study, 2009. This study seeks to identify additional research and methodologies to further assess the potential impact of digital billboards on driver attention and distraction and to propose a research strategy to fill those knowledge gaps. It makes recommendations for studies that are to be completed in a subsequent phase.

Staff concludes from a review of the above information that there is sufficient evidence in regard to the potential driver distraction associated with digital billboards and other digital signs to warrant caution. Should the City Council choose to allow

electronic/digital signs or billboards in the Downtown Core or elsewhere in San Jose, parameters for the location, design and operation of these signs will need to be developed and installation of signs would need to be determined on a case-by-case basis based on design elements such as roadway design, speeds, volumes, and sight distance.

State Preemption

The State of California has preempted local jurisdictions from regulating legal nonconforming billboards in the same manner as other legal nonconforming structures. Generally, the City cannot amortize out billboards as it can other types of structures or otherwise require the removal of a billboard without some consideration of just compensation. The significant advertising revenue associated with billboards has resulted in outdoor advertising companies pursuing very aggressive measures to retain existing billboard signs. As result, an existing billboard on a site proposed for development can present a serious impediment to the new development. Even billboards that have lost their potential to generate significant revenue (due to the fact that the visibility of the billboard has decreased over time with the development of nearby high rises, for example), are generally retained in place by billboard companies on the chance that they may be eligible for future relocation. Existing billboards on East Santa Clara Street illustrate this point. The Redevelopment Agency has planted street trees along this corridor that are now beginning to reach maturity. The trees reduce the visibility of billboards that have existed in this corridor for decades and many of the billboards are

now difficult to lease. They nevertheless remain; those that cannot attract paying advertisements display public service announcements.

State preemption means that any decision to allow new billboards is a weighty one with long-term implications; once billboards are in place, options for removing them are likely to be very expensive, regardless of changes in community expectations and public policy.

Summary and Recommendation

Based on the above analysis, staff concludes the following: 1) staff's review of existing billboards in San Jose does not support the premise that new billboards would contribute to economic vitality or a unique, vibrant or creative urban environment; 2) San Jose residents have overall indicated a moderate level of acceptance of billboards but have indicated a strong preference for on-site signage due to its way-finding and informational benefits and in connection with local business; 3) major cities vary in their approach to billboard regulation – San Francisco has recently banned new billboards and Los Angeles is in the process of significantly limiting billboards based on community concern; 4) a growing body of evidence indicates that electronic/digital signs are more distracting to drivers than static signs, that increased driver distraction has potential adverse safety implications, and that regulations are needed to maximize traffic safety; 5) State preemption regarding billboards means that any decision to allow new billboards has long-term implications and that options for removing billboards, once they are in place, are likely to be limited and/or expensive regardless of changes in community expectations and public policy. Based on these considerations, staff recommends that the City Council retain the existing billboard ban for both static and electronic/digital billboards.

Off-Site Advertising on City Property

In adopting the budget for the current fiscal year, the City Council directed the Administration to explore a citywide advertising program involving off-site advertising on City property that would generate revenue for core City services and to identify necessary changes to the Sign Ordinance. Budget Document 3 provides staff direction to generate general fund revenue through commercial advertising at the following specific locations in the city:

1) trash and recycling receptacles in the downtown, the Neighborhood Business Districts (NBDs) and parks;

2) public toilets in the downtown; and

3) free-standing advertising kiosks throughout the downtown core, within NBDs and at city-owned property (like the Convention Center and Mexican Heritage Plaza).

The Council also provided specific direction on sign technology (24/7 backlighting) and a desire to limit alcohol and tobacco advertising and suggests that the Arts Commission function as the review body supported by staff. The direction asks for staff to identify the necessary changes in the Sign Code to implement Council direction.

The Sign Ordinance does not currently allow commercial signage to be placed in the public right-of-way. Any proposal to allow off-site commercial advertising in public right-of-way locations would require amendments to the Sign Ordinance to make provision for such signage. In response to City Council direction regarding this issue, staff conducted community outreach as part of the Update process regarding news racks and other forms of commercial advertising in the public right-of-way. Community response to this type of signage was generally very positive.

A lawsuit is currently on appeal regarding the ability of a city to have a billboard ban while allowing off-site advertising on public property. If the Council chooses to retain the existing billboard ban for private property, the legal guidance from this appellate case would be very important to any decision to allow off-site advertising on public property. Staff is recommending that the Council retain the current regulations for billboards on private property and that the Council delay making a decision regarding off-site advertising on public property until the outcome of this case sheds light on whether these two issues are linked. The City Attorney's Office is tracking this lawsuit and staff will bring forward recommendations for public right-of-way signage as soon as legal guidance resulting from the case is available.

Appendix A: Billboards in Two San Jose Census Tracts

Census Tract No. 5001.00 - Council District – 3

1144 N 4th St

Message Category: Alcohol
Condition: Good[5]

Message Category: Other
Condition: Good

259 E Taylor St

Message Category: Alcohol
Condition: Good

375 E Hedding St

Message Category: Other
Condition: Good

390 Commercial St

Message Category: Alcohol
Condition: Good

Message Category: Other
Condition: Good

456 E Hedding St & 10th St

Message Category: Soda/ Fast Food
Condition: Good

Message Category: Other
Condition: Good

456 E Hedding St & 10th St - 1

Message Category: Public Service
Condition: Good

784 N13th St

Message Category: Alcohol
Condition: Poor[6]

Message Category: Movie/ Media
Condition: Poor

816 N 10th St

Message Category: Movie/ Media
Condition: Good

831 N 11th St

Message Category: Other
Condition: Good

862 13th St

Message Category: Movie/ Media
Condition: Good

955 Oakland Rd

Message Category: Other
Condition: Good

Message Category: Other
Condition: Good

---

[5] Condition rated "good" if message surface is intact and there is no graffiti.

[6] Condition rated "poor" if some or all of the message surface is ripped of if billboard is defaced by graffiti.

999 10th St

Message Category: Alcohol
Condition: Good

HWY 101- 300 feet east from 10th St
(Other face of the billboard is towards the freeway and is not rated.)

Message Category: Movie/ Media
Condition: Poor

SE corner N10th St & HWY 101
(Other face of the billboard is towards the freeway and is not rated.)

Message Category: Alcohol
Condition: Good

NE corner 10th St & Horning St

Message Category: Alcohol
Condition: Good

North Side of E Hedding St 100 feet from 12th St

Message Category: Other
Condition: Good

NW corner 10th St & Commercial St

Message Category: Public Service
Condition: Good

Message Category: Movie/ Event
Condition: Poor

NW corner of E Hedding St & N Bayshore West St

Message Category: Alcohol
Condition: Poor

NW corner 10th St & E Hedding St (901 N 10th St)

Message Catogery: No Message
Condition: Poor

Message Category: Public Service
Condition: Good

NW corner Oakland Rd & Madera Ave

Message Category: Other
Condition: Good

Message Category: Alcohol
Condition: Good

Census Tract No. 5031.03- Council District – 7

1507 S 10th St- 100' from Alma Ave

Message Category: Alcohol
Condition: Good

1620 S 7th St

Message Category: Alcohol
Condition: Good

1595 S 10th St

Message Category: Media/ Movie
Condition: Good

Message Category: Public Service
Condition: Good

1603 S 7th St

Message Category: Alcohol
Condition: Poor

Message Category: Public Service
Condition: Good

1641 S 10th St

Message Category: Public Service
Condition: Good

Message Category: Other
Condition: Good

SW corner Monterey Rd & Phelan Ave

Message Category: Public Service
Condition: Poor

2055 S 7th St

Message Category: Media/ Movie
Condition: Good

1750 S 10th St

Message Category: Media/ Movie
Condition: Poor

Message Category: Public Service
Condition: Good

1980 S 7th S

Message Category: Alcohol
Condition: Good

Message Category: Media/ Movie
Condition: Good

2331 S 7th St

Message Category: Alcohol
Condition: Good

Message Category: Public Service
Condition: Good

2070 S 7th

Message Category: Public Service
Condition: Good

NE corner of E Alma Ave & RR

Message Category: Other
Condition: Good

SE corner of E Alma Ave & RR

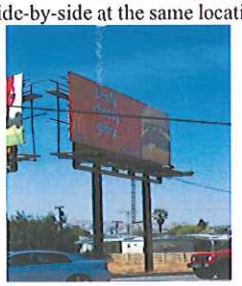
Message Category: Public Service
Condition: Good

South side of Tully Rd 200 feet east of Monterey Rd

Message Category: Soda/ Fast Food
Condition: Good

North side of Tully Rd- 200 feet east of Monterey Rd
(Two single-faced billboards are located side-by-side at the same location.)

Message Category: Public Service
Condition: Good



Message Category: Soda/ Fast Food
Condition: Good

North side of Tully Rd- 250 feet east of Monterey Rd (Two single-faced billboards are located side-by-side at the same location.)

Message Category: Other
Condition: Good

Message Category: Public Service
Condition: Good

NW corner Phelan & RR

Message Category: Public Service
Condition: Good

SW corner Phelan Ave & RR

Message Category: Media/ Movie
Condition: Poor

Opposite side of 1595 S 10th St

Message Category: Other
Condition: Good

SE corner Monterey Rd & RR
Billboard has two faces. The second face is hidden behind the tree.

Message Category: Public Service/ Alcohol
Condition: Good/ Poor

SW corner Monterey Rd & RR

Message Category: Other
Condition: Good

Message Category: Soda/ Fast Food
Condition: Good

SE corner Monterey Rd & Bellevue Ave

Message Category: Alcohol
Condition: Good

Message Category: Alcohol
Condition: Good

SE corner of S 7th & Phelan Ave

Message Category: Public Service
Condition: Good

1608 Almaden Expy

Message Category: Alcohol
Condition: Good

SW corner Tully Rd, S 7th and Old Tully Rd (Two single-faced billboards are located side-by-side at the same location.)

Message Category: Alcohol/ Media & Movie
Condition: Good/ Good

Message Category: No Message/ No Message
Condition: Poor/ Poor

SW corner Old Tully Rd & Healy Ave (2400 Monterey Rd)

Message Category: Media/ Movie
Condition: Good

Message Category: Alcohol
Condition: Good

1603 Almaden Expy

Message Category: Public Service
Condition: Good

Message Category: Other
Condition: Good

1639 Almaden Rd

Message Category: Media/ Movie
Condition: Poor

Almaden Expy

Message Category: Other
Condition: Good

NW corner Almaden Expy & San Jose Ave

Message Category: Media/ Movie
Condition: Good

Message Category: Soda/ Fast Food
Condition: Good

NW Corner W Alma Ave & SP Railroad

Message Category: Alcohol
Condition: Poor

NW Corner W Alma Ave & SP Railroad - 1

Message Category: Other
Condition: Good

SW Corner W Alma Ave & SP Railroad

Message Category: Alcohol
Condition: Good

NW corner W Alma Ave & Vine St

Message Category: Alcohol
Condition: Good

SE corner W Alma Ave & Little Orchard St

Message Category: Alcohol
Condition: Good

W 10th - 200 feet south of Alma Ave

Message Category: Other
Condition: Good

SW corner W Alma Ave & Mastic St

Message Category: Soda/ Fast Food
Condition: Good

Message Category: No Message
Condition: Good

W 10th - 220 feet south of Alma Ave- 1

Message Category: Public Service
Condition: Good

1675 S 1st

Message Category: No Message
Condition: Poor

1775 S 1st

Message Category: Alcohol
Condition: Good

Message Category: Other
Condition: Poor

1787 S 1st		SE corner Monterey Rd & Alma Ave-2	
Message Category: Alcohol Condition: Good	Message Category: Other Condition: Good	Message Category: Public Service Condition: Good	Message Category: Public Service Condition: Good

Attachment V

Public Correspondence

Hamilton, Carol

From: phfoster2@netzero.com
Sent: Friday, May 22, 2009 4:44 PM
To: hbliven@att.net
Cc: Hamilton, Carol
Subject: Re: San Jose Signs

Hi Carol,

I agree with Helen. No foreign language signs. This is the USA and the common language that provides US with a common understanding is English.

Phil Foster
MCNA President
Home: 408-578-8130

---------- Original Message ----------
Return-Path: <hbliven@att.net>
Received: from mx11.vgs.untd.com (mx11.vgs.untd.com [10.181.44.41])
by maildeliver03.vgs.untd.com with SMTP id AABFBPWR5AJVQ7E2
for <phfoster2@netzero.net> (sender <hbliven@att.net>);
Fri, 22 May 2009 09:25:31 -0700 (PDT)
Received: from web80503.mail.mud.yahoo.com (web80503.mail.mud.yahoo.com [209.191.72.56])
by mx11.vgs.untd.com with SMTP id AABFBPWR5AFAM23S
for <phfoster2@netzero.net> (sender <hbliven@att.net>);
Fri, 22 May 2009 09:25:31 -0700 (PDT)
Received: (qmail 42506 invoked by uid 60001); 22 May 2009 16:25:30 -0000
Message-ID: <519319.41729.qm@web80503.mail.mud.yahoo.com>
X-YMail-OSG:
QZpntFkVM1mF7QucFTo4EI3cAQLpd0wKxS.WlyTQFVPeqpVHgVNPCA4KHI6krf51GklV2fy_N2w
Received: from [75.36.203.153] by web80503.mail.mud.yahoo.com via HTTP; Fri, 22 May 2009
09:25:30 PDT
X-Mailer: YahooMailRC/1277.43 YahooMailWebService/0.7.289.10
Date: Fri, 22 May 2009 09:25:30 -0700 (PDT)
From: Helen Bliven <hbliven@att.net>
Subject: San Jose Signs
To: carol.hamilton@sanjoseca.gov
Cc: "phfoster2@netzero.net" <phfoster2@netzero.net>
MIME-Version: 1.0
Content-Type: multipart/alternative; boundary="0-1763381610-1243009530=:41729"
X-ContentStamp: 2:3:1736872928
X-UNTD-Peer-Info:
209.191.72.56|web80503.mail.mud.yahoo.com|web80503.mail.mud.yahoo.com|hbliven@att.net
X-UNTD-UBE:-1

Hello Carol,

I won't be able to attend either meeting, so am sending this input:

PLEASE: No foreign language signs!

In order to be commUNITY we need to be on the same page with one language. In terms of budget problems it will save money, too. Less space and materials needed, and no translation expense. We are already so overwhelmed with signage that sometimes the important ones (No U turn) are missed.

Thank you for the opportunity of adding my 2 cents worth!

Helen Bllven
Past President, McLaughlin Corridor Neighborhood Association

From: mail@sanjosed1.com
Sent: Friday, July 31, 2009 3:16 PM
To: Hamilton, Carol
Subject: fw: RE: Sign Code Community Input

From: "Phil Strong" <phil@strongleadership.com>
Sent: Sunday, July 05, 2009 4:44 PM
To: "Councilmember Pete Constant" <mail@sanjosed1.com>
Subject: RE: Sign Code Community Input

Dear Pete -

1. There are sections of San Jose that are 'loaded' with signs of all sizes such as on Tully and Senter. There are so many stashed on the lawns, strung on trees that when driving by you really cannot read any of them because they just become a blur. It is a real eye-sore.

2. Many signs are un-readable because they are written in foreign languages. Unless you know the language, one has NO idea what the business wants you to know. Seems to me they are defeating the purpose of signage in the first place by limiting the advertisement to a single foreign language.

3. While a multi-language speaking culture tends to become a richer culture, signage is not intended to enrich but rather to inform, direct and entice one to know where and what a business establishment wants you to know about their product or service.

4. Generally, San Jose City signage should be limited to "English Only" in order to maintain a communi-cation standard to appeal to the largest viewing audience possible.

5. Leadership in this signage area is now essential before the problem becomes totally out of control. I look to the city establishing a signage leadership group with volunteer representatives from businesses holding San Jose City business licenses to establish agreeable guide lines as to the size, quantity and placement of business signs.

Thank you for asking for my opinion.

Best Regards,

Phil Strong - President
Strong Leadership Systems
8430 Chenin Blanc Lane
San Jose, Ca 95135
Email: Phil@StrongLeadership.Com
Ph: 408 - 532-0996
Cell 408 -712-4500
WWW.StrongLeadership.Com

From: Councilmember Pete Constant [mailto:bounce@sanjosed1.com] **On Behalf Of** Councilmember Pete Constant
Sent: Thursday, July 02, 2009 8:08 PM
To: Phil Strong
Subject: Sign Code Community Input Meeting

Dear Phil,

As a former small business owner I know the value of good signage. I have been working to update our sign code to better serve the needs of San José businesses and their patrons in a way that is sensitive to surrounding neighborhoods. The City is currently reviewing the sign code for changes that will affect you. I encourage you to attend one of the community meetings listed below. There are also a number of stakeholder meetings that are open to the public.

Please click for the Community Meetings flyer.
Please click here for the Stakeholder Focus Group Meetings flyer.

Community Input Meetings

Wednesday, July 8, 2009
6:30 p.m. to 8:00 p.m.
Roosevelt Community Center
Community Room
901 East Santa Clara Street, San José

Thursday, July 9, 2009
6:30 p.m. to 8:00 p.m.
Camden Community Center
Room 118
3369 Union Avenue, San José

Please attend one of these important community meetings and share your input or feel free to contact me with any suggestions you have for revising the City's Sign Code.

Sincerely,

Pete Constant
San José City Councilmember, District 1
San José City Hall | 200 E. Santa Clara St., 18th Floor | San Jose, CA 95113
408-535-4901 | pete.constant@sanjoseca.gov | www.sanjoseca.gov/district1/

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From: mail@sanjosed1.com
Sent: Friday, July 31, 2009 3:16 PM
To: Hamilton, Carol
Subject: fw: Re: Sign Code Community Input Meeting

From: "Terry" <KellyProperties@comcast.net>
Sent: Friday, July 03, 2009 7:39 PM
To: "Councilmember Pete Constant" <mail@sanjosed1.com>
Subject: Re: Sign Code Community Input Meeting

Thanks, Pete. I am interested in this topic. The current regs for RE 'for sale' signs is sufficient, but I think there should be some leeway for the open house roadside signage. I know that my business can only stay alive if I can continue to promote **my client**'s listings and **my brokerage** with the 'open house' signs. One good rule should be that if a street corner is occupied by a sandwich sign by another realtor directing traffic in the same direction as your listing, then there really is no need to duplicate that signage and clutter the pedestrian street corner. I follow this rule myself, but not everyone complies. We have more people walking (with dogs) and using the sidewalks, so we should keep them as uncluttered as possible. We realtors even know of some homeowners that rail against **legal** signage on their sidewalks and we **respect** these **unrealistic** people's bias and do **not** place signs near their homes, in deference to our unthinking neighbors, even though it is permitted. To restrict realtors sign options would greatly restrict the marketing of our cllients' homes, adversely impacting the home resale market, that's my opinion.

Terry Kelly
Kelly Properties
1314 Lincoln Ave., 2C
San Jose, CA 95125
408 529-0234
Kellyproperties@comcast.net
"Serving You like Family"

-- Original Message -----

> **From:** Councilmember Pete Constant
> **To:** Terry Kelly
> **Sent:** Thursday, July 02, 2009 8:26 PM
> **Subject:** Sign Code Community Input Meeting
>
> Dear Terry,
>
> As a former small business owner I know the value of good signage. I have been working to update our sign code to better serve the needs of San José businesses and their patrons in a way that is sensitive to surrounding neighborhoods. The City is currently reviewing the sign code for changes that will affect you. I encourage you to attend one of the community meetings listed below. There are also a number of stakeholder meetings that are open to the public.
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Camden Community Center
Room 118
3369 Union Avenue, San José

Please attend one of these important community meetings and share your input or feel free to contact me with any suggestions you have for revising the City's Sign Code.

Sincerely,

Pete Constant
San José City Councilmember, District 1
San José City Hall | 200 E. Santa Clara St., 18th Floor | San Jose, CA 95113
408-535-4901 | pete.constant@sanjoseca.gov | www.sanjoseca.gov/district1/

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From: Cansino, Rhovylynn **On Behalf Of** Constant, Pete
Sent: Tuesday, August 11, 2009 12:48 PM
To: 'Dana Abbott'
Subject: RE: Sign Code Meeting Input

Hello Dana,

Thank you very much for taking the time to e-mail me your suggestion on the city's sign code ordinance update. I will forward your message to Carol Hamilton from the Planning Department who is the project manager for the update. Please don't hesitate to contact our offices should you have any questions or concerns.

Best,

Rhovy Cansino
Council Aide
Office of Councilmember Pete Constant
San José City Councilmember, District 1
San José City Hall | 200 E. Santa Clara St., 18th Floor | San José, CA 95113
Phone: 408-535-4918 | Fax: 408-292-6448
rhovylynn.cansino@sanjoseca.gov | www.sjdistrict1.com

P.S. Councilmember Constant would like to keep you apprised of current issues in District 1 and the City of San José, if you'd like to be added to our newsletter distribution list, please e-mail our office at district1@sanjoseca.gov or sign-up online at www.sjdistrict1.com

---

From: Dana Abbott [mailto:abbottpress@gmail.com]
Sent: Sunday, July 05, 2009 2:59 PM
To: Constant, Pete
Subject: RE: Sign Code Meeting Input

Hello,
I would like to suggest that there be some electronic signs in high foot traffic areas, like perhaps Santana Row or some shopping areas, where people can easily see listings of community events, such as e-waste drop off, prescription drug waste, senior related offerings. I would think this would be easier to maintain and update than having flyers posted on bulletin boards.

Dana Abbott
AbbottPress@gmail.com

Hamilton, Carol

From: tom utic [utic57@hotmail.com]
Sent: Monday, August 24, 2009 4:24 PM
To: Hamilton, Carol
Subject: Alameda billboards

Hello Ms Hamilton,

I live and work in San Jose and have a concern about the location of several large billboards. I'm not sure whether you are the best person to contact, but I heard the City of San Jose may be reviewing policy or placement of billboards in some areas.

While I personally consider any billboards on surface streets to be unsightly, I understand that contracts with billboard companies limit the City's flexibility in determining billboard removal or relocation. My particular concern is the large billboard at the intersection of the Alameda and Race, a location currently under study (The Alameda: *A Plan for The Beautiful Way* Project Caltrans Community Based Transportation Grant). I believe that removal of this billboard should be a critical component of any improvement plan, along with another billboard on Race street near W. San Fernando that faces the Alameda.

I would appreciate it if you would consider my input on this matter, or forward it to whoever may be in a position to affect a change. Thank you for your consideration.

Tom Utic

Windows Live: Make it easier for your friends to see what you're up to on Facebook. Find out more.

Carol Hamilton
Senior Planner
City of San Jose
200 E. Santa Clara St. 3rd Floor
San Jose Ca. 95113-1905

September 22, 2009

Re: Any Proposed Elimination of Owners Consent from Sign Re-location Ordinance.

Dear Carol,

I am writing to you on behalf of myself, La Senda LLC, and Desert Development LLC. We have also spoken with several other property owners who may be calling and or writing you. Let me begin by saying that we appreciate your listening to the property owners' perspective while gathering input for your report on the proposals to change the sign code.

Any proposal to change in the sign code to eliminate property owner consent to relocation of a sign will divest property owners of long vested property rights. A permit to use property for general advertising purposes is no different than any other permit for a regulated land use in that it is a property right owned by the property owner and runs with the land. A land use permit of any kind is an enhancement in the value of property *ownership,* a right that is transferrable by the property owner to his successor's interest. Any land use permit issued to a tenant is issued to the tenant as agent for the property owner.

Any lobbying by the sign companies to eliminate property owner consent from the re-location ordinance misses this fundamental point of land use regulation – the vested right for any land use is held by the property owner, *not the tenant.* A tenant cannot control the use of the property beyond the unexpired term of its lease.

As you know once a permitted sign is removed, it can't be replaced. A relocation necessarily means the removal of non-conforming use, a forced abandonment unless consented to by the owners of the properties where the "removed" sign is located. Under the current ordinance (Section 23.04.460) the relocation of a general advertising signs is logically and legally prohibited without the property owner's consent. This consent provision protects the City from claims of inverse condemnation and protects the rights of property owners, a right they can choose to waive by informed consent. Without the consent provision, the tenant is allowed to force an abandonment of the long held permit rights owned by the property owner.

We have spoken to other owners and they share the same concerns for the futures of their properties regarding relocations without their consent and the effect that it would have on the values of their property. While the sign companies have the right to remove their structures at the end of a lease or during the lease for that matter (as long as the rent is paid), they won't do so unless they have the right to re-locate the sign to another property. Where property owner consent is required the property owner retains control of the use of his property, prevents involuntary abandonment, and retains the value of that use.

However relocation under a revised ordinance which removes property owner consent is a different matter altogether. A relocation would be a transfer by the tenant of a property right belonging to a long-vested property owner to another property without consent. Acting under color of this proposed law, the tenant sign companies take the property rights of the owner of the "removed" property.

If you were to contemplate any changes to section 23.04.460 of the law, we believe you should contact the property owners in the City of San Jose who would be affected to get their input. A change in the consent language could significantly change the values of their properties. In these times, when it is hard enough to make ends meet, a change in the code removing owner consent would put many of the owners in a position of financial hardship. Others may not object to the existing sign being relocated and will negotiate a "buy out" of the permit rights as consideration for the consent. If the prospective new location and sign are valuable, the sign companies will find a way to obtain an agreement with their current property owners to obtain consent. This is the only fair way to treat the issue of relocation.

As a side note, the City of San Francisco's recently adopted new sign code requires property owner consent for relocation. They did this because of the same factors I have brought up in this letter and the same reasons the City of San Jose included them in the current sign code.

I appreciate you listening to the property owner perspective on the matters before you and trust that you will protect land use rights of the property owners of the City of San Jose in deciding which strategy you will be recommending.

Sincerely,

Les Keyak
901 Mariners Island Blvd #600
San Mateo CA 94404

les@sportleasing.com
650 403 2301 office

September 3, 2009

Carol Hamilton
Senior City Planner
City of San Jose, Planning Dept.
VIA EMAIL (CAROL.HAMILTON@SANJOSECA.GOV)

RE: San Jose Sign Code Update

Dear Ms. Hamilton:

Thank you again for the opportunity to participate in today's discussion regarding the potential update to the City's Sign Code. SiliconView's inventory of signs consists exclusively of large-format L.E.D. billboards. I will elaborate here on what we like and what we would like to see changed with respect to Strategy 4 regarding programmable electronic (L.E.D.) billboards.

What we like:

- Strategy 4 accommodates off-premises advertising and advertising adjacent to a thoroughfare. Both these factors are absolute prerequisites for making large format L.E.D. billboards economically viable. The upfront capital investment for an L.E.D. billboard is substantial. To recoup that investment, a billboard company must attract national advertisers with a high traffic venue.

What we would like to see changed:

- Strategy 4 is not geographically comprehensive in that it only looks at the downtown. L.E.D. billboards would also be appropriate and desirable adjacent to the City's other major freeways, especially HWY 101 and I-880. It has been 18 years since the City last looked at updating the Sign Code. In my judgment, a comprehensive review is overdue in light of the increasingly urban nature of the City and the technological advances made in digital signage since 1992.

- The requirement that 5 boards be taken out of service for every new board is an impossible barrier to entry, especially for a new entrant into the San Jose market. Property owners and other sign companies have entered into long term leases on existing billboards, and there is no incentive for them to give up those revenue streams. True, it may be possible to buy out those interests, but that is far from certain, will likely get very expensive and in most instances will make a new L.E.D. billboard economically unfeasible.

We are very pleased that the City has taken an interest in L.E.D. billboards. These signs are dynamic, visually interesting, eco-friendly, provide a much needed boost to business and can be programmed in mere minutes to disseminate public safety and public service announcements.

Best regards,

Adam Kates
General Manager

www.SiliconView.com
1068 East Meadow Circle Palo Alto, CA 94303
Phone: 650 493-3500 | Fax: 650 493-9050

RECEIVED

OCT - 2 2009

CITY OF SAN JOSE
DEVELOPMENT SERVICES

September 30, 2009

Ms. Carol Hamilton
Senior Planner
CITY OF SAN JOSE
200 E. Santa Clara Street, 3rd Floor
San Jose, CA 95113-1905

Re: Sign Re-location Ordinance
North East Corner Marbury Way and Highway 101 – San Jose

Dear Ms. Hamilton:

As a tax paying, long time resident of San Jose, I would like to register my strong opposition to what I believe the commercial billboard companies are proposing and the City is considering. As a property owner who has derived family sustaining income from a large billboard for many years, my property rights are not being recognized or protected. The City should not allow a sign company to remove the sign from my property as trade with the City for a new location without compensation to the property owner. Further more the idea that a competing sign company would not be allowed to replace the sign and the property owner's income stream is wrong. The City's proposed sign blight ordinance is unfair to the property owners who rely on the income from these signs. The City is condemning a portion of our property and our ability to derive income there from. If the City is going to proceed with the plan as we know it, we will look to the City to compensate us for the loss of future income. Once the other affected property owners understand what is transpiring they to will be looking for justice.

The property owners who pay the taxes have rights that must be respected. Please assist us in this matter before it gets out of hand.

Please call our representative, Larry Jones at 510.891.5819, if you have any questions.

Best regards,

Joanie Jones

Joanie Jones
Co-Trustee
Jones-Bittel Trust
5427 Club Drive
San Jose, CA 95127

cc: Mayor Chuck Reed
City Manager Debra Figone
All Council Persons