



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
April 6, 2010

**Honorable Members of the
Law and Legislation Committee**

Title: Digital Billboard Sign Code Amendment (M09-035)

Location/Council District: Citywide

Recommendation: Review an **Ordinance** amending Section 15.148 of the City Code relating to digital billboards on city property, and forward a recommendation of approval to the City Council.

Contact: Sandra Yope, Senior Planner, (916) 808-7158; Joy Patterson, Principal Planner, (916) 808-5607

Presenter: Sandra Yope, Senior Planner, (916) 808-7158

Departments: Community Development

Divisions: Current Planning

Organization No: 21001221

Description/Analysis:

Issue: Chapter 15.148 of the City Code, a part of the City Building Code, contains the City's sign regulations. Currently, Section 15.148.640 prohibits signs that are animated by means of flashing, scintillating, blinking, or traveling lights or by any other means not providing constant illumination. The City has interpreted this prohibition to apply to digital signs, including digital billboards, i.e., billboards that use digital-display technology. Additionally, on October 16, 2007, the Sacramento City Council adopted Ordinance No. 2007-079, which prohibits the construction and operation of new billboards within the City. Ordinance No. 2007-079 also provides, however, that this prohibition does not limit the City's ability to enter into billboard relocation agreements under which new billboards may be constructed in exchange for the permanent removal of existing billboards.

Clear Channel Outdoor (CCO) wishes to construct, maintain, and operate four new digital billboards on city-owned property under a billboard relocation agreement. CCO would construct the proposed new digital billboards under a

lease with the City of Sacramento. The lease will address, among other things, the location, design, and height of the digital billboards, as well as incorporate the mitigation measures identified in the Mitigated Negative Declaration, as appropriate. To allow the CCO proposal to move forward, staff proposes an amendment to Chapter 15.148 to authorize a limited exception to the prohibition on digital signs, allowing the limited use of relocation agreements for the construction of digital billboards on certain City-owned lands.

The specific changes include allowing the use of digital technology on billboards, allowing a maximum height of 85 feet to the top of the message board, allowing them to be located in a commercial or industrial zoned parcel, and allowing the billboards to have one or two faces no greater than 700 square feet. The changes are specifically placed in the relocation section of the code and do not change any other provisions of Chapter 15.148.

Policy Considerations: The proposed ordinance is consistent with the City's Strategic Plan goals to expand economic development throughout the city. Limiting the construction of digital billboards to City-owned property will prevent the uncontrolled proliferation of digital billboards throughout the City. Moreover, because the City will own the property on which digital billboards are constructed, the City will be able to control the location, design, and operation of the billboards as well as the content and appearance of the messages displayed. Additionally, the city will be able to assess the use of this new technology while generating additional revenue for municipal purposes.

Committee/Commission Action: None

Environmental Considerations: The proposed revisions to the City Code are part of the Digital Billboards project. The project includes other entitlements that are not before the Law and Legislation Committee for review. Environmental review pursuant to the California Environmental Quality Act (CEQA) was conducted on the overall project, which includes all required actions, including the proposed amendment to the City Code.

The Department of Community Development, Environmental Planning Services, prepared an Initial Study for the proposed Digital Billboard project, which includes an amendment to the City Code, rezoning, construction, installation and operation of four digital billboards on City property. On the basis of the Initial Study, staff concluded that all potentially significant effects of the project could be mitigated to a less-than-significant level, and a Mitigated Negative Declaration (MND) was prepared. Following the applicant's agreement to all proposed mitigation measures, the MND was circulated for public review for a period of thirty days.

Several comments have been received regarding the MND and Initial Study. All comment letters have been included as attachments to this staff report. The County of Sacramento, Planning and Community Development Department, submitted its comment suggesting that approval of the project could result in

similar requests for such signage in the unincorporated portion of the County. As with the City, the County has the ability to control approvals in its jurisdiction, and with appropriate safeguards no significant environmental effect would result. The County also stated its concern regarding light pollution and traffic safety, issues addressed in detail in the Initial Study.

Comments were received from Caltrans, Outdoor Advertising Division, and the Central Valley Flood Protection Board, commenting on technical requirements within their jurisdiction.

The McKinley East Sacramento Neighborhood Association (MENA) commented via email dated January 2, 2010. The comments from MENA regarding traffic hazards have been addressed in the MND. The comments also address greenhouse gas emissions that could be generated by operation of the billboards. The Master EIR for the 2030 General Plan addressed climate change issues in detail. The Master EIR discussion is located on line beginning on page 8-1 at http://www.sacgp.org/documents/Part2_GPMasterEIR.pdf.

The Master EIR concluded that the greenhouse gas emissions that could be generated by development consistent with the 2030 General Plan would be cumulatively significant and unavoidable. (Page 8-61) Climate change that could result from greenhouse gas emissions is an inherently cumulative impact, and is being addressed by the City through the general plan process and the preparation of the City's Climate Action Plan. The Mitigated Negative Declaration has been revised to include additional discussion regarding energy usage and greenhouse gas emissions that would be associated with the proposed project.

Kaiser Permanente South has approved plans to operate a helipad on the hospital site, and has commented regarding potential effects of the proposed billboard at Mack Road on helipad operations. Staff inquired of the Sacramento Area Council of Governments (SACOG), the local agency with jurisdiction regarding airport operations, and Caltrans Division of Aeronautics. Caltrans reviewed the proposed location, and advised that the proposed billboard location is approximately 725' north of the Kaiser South Hospital Helipad, and would be located outside the approach/departure surface for the Kaiser South Heliport. Caltrans also advised that the proposed billboard would not be an operational issue. (M. Smith, Caltrans Division of Aeronautics, 2/26/2010)

The revised MND and Initial Study has been posted on the Department's web site at <http://www.cityofsacramento.org/dsd/planning/environmental-review/eirs/>. None of the above comments or changes affected the substantive issues addressed in the environmental document, and recirculation for public review is not required.

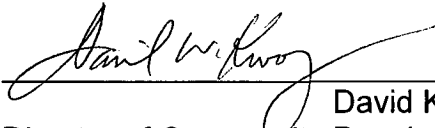
Sustainability Considerations: There are no sustainability considerations applicable to the changes made in the section of Title 15.

Rationale for Recommendation: The proposed code amendments will permit digital billboards to be located on city owned property subject to the review of a relocation agreement.

Financial Considerations: None.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Respectfully Submitted by: 
David Kwong
Planning Manager

Approved by: 
David Kwong
Acting Director of Community Development

Recommendation Approved:


Gus Vina
Interim City Manager

Table of Contents:

Report	Pg	1
Attachments:		
1 Proposed code changes (redlined) relating to Digital Billboards on City Owned Lands	Pg	5
2 Ordinance, relating to Relating to Digital Billboards on City Owned Lands	Pg	9

PROPOSED CODE CHANGES (REDLINED)

15.148.815 Relocation of offsite signs pursuant to relocation agreements.

A. Purpose. The purpose of relocation agreements approved pursuant to this section is to allow for the removal and relocation of existing, nonconforming, offsite signs to new and different locations, and to enable the substitute of offsite signs meeting modern standards for such existing, nonconforming, offsite signs. For purposes of this section, relocation includes the removal of existing nonconforming, offsite signage and the construction of new replacement offsite signage or alteration of existing offsite signage, subject to compliance with the requirements of this section.

B. Offsite Signs Pursuant to Relocation Agreement. Notwithstanding provisions of this chapter to the contrary, a new or relocated offsite sign that does not comply with all of the requirements of this chapter may be allowed pursuant to a relocation agreement approved by the city council pursuant to this section, subject to the requirements and procedures set forth below.

C. Applicability. Any legal, nonconforming offsite sign may be considered as a candidate for relocation pursuant to a relocation agreement as provided in this section. Such offsite signs may be relocated to a new site or relocated on the present site only in accordance with this section.

D. Procedure. Relocation agreements shall be approved by the city council. Applications for relocation agreements shall be noticed and heard before the planning commission and city council in the same manner as applications for city council approved special permits are noticed and heard pursuant to Section 17.212.060 of the city code.

E. Application—Property Owner's Consent or Indemnity. To the extent the applicant is not the owner of the property on which the nonconforming, offsite sign proposed for relocation is located, or is not the owner of the property to which the nonconforming, offsite sign will be relocated, the applicant shall, either at the time of application, either provide documentation of the consent of the owner(s) to the application or, agree to indemnify the city against any and all claims from owner(s) concerning the processing and approval, should approval occur, of the relocation agreement application.

F. Requirements For Relocated Offsite Signs. The offsite sign(s) approved for relocation pursuant to a relocation agreement under this section shall comply with the requirements of this chapter for offsite signs, except as specifically provided below:

1. Size. The maximum size of an individual offsite sign relocated pursuant to a relocation agreement shall not exceed seven hundred (700) square feet;

2. Distance Between Offsite Signs. Except as prohibited by the California Outdoor Advertising Act, and notwithstanding Section 15.148.160(B), offsite signs may be located at or greater than two hundred and fifty (250) feet from another offsite sign on the same side of the street; and to the extent an offsite sign is located on one street but is oriented to be viewed from another street, no such sign shall be located nearer than two hundred and fifty (250) feet to any other offsite sign on the same side of the street on which it is located or any other offsite sign located on the nearest side of the street to which said sign is oriented;

3. Zoning. Relocated offsite signs shall be allowed in the C-4, M-1 and M-2 zones; provided that lawfully existing, nonconforming offsite signs located in other zones may be altered, modified or replaced in the same location pursuant to a relocation agreement, provided that all of the other provisions of this section are satisfied.

4. Reduction In Number of Signs and Square Footage. No relocation agreement shall be approved unless the relocation agreement results in: i) a net reduction in the number of offsite signs lawfully permitted; and ii) a net reduction in the total square footage of offsite signage lawfully permitted.

5. Signs Within Six Hundred and Sixty (660) Feet of a Freeway. Notwithstanding Section 15.148.850, a relocation agreement may be approved even though it would result in the relocation of a sign or signs to a location within six hundred and sixty (660) feet of a freeway where the copy of such offsite sign would be visible by persons traveling on that freeway.

~~6. Consistency with Outdoor Advertising Act. In addition to the other requirements set forth above, the relocated offsite sign shall comply with the requirements of the Outdoor Advertising Act, California Business and Professions Code Secs. 5200 et seq., including but not limited to the restrictions on size, height, proximity to interstate and primary highways and landscaped freeways and other regulations set forth in Article 7 (Business and Professions Code Secs. 5400-5419) and Article 8 (Business and Professions Code Secs. 5440-5443.5). To the extent of any conflict between the provisions of this Section and the provisions of the Outdoor Advertising Act, the Outdoor Advertising Act shall prevail.~~

6. Digital Billboards on City Land. Notwithstanding Section 15.148.640, the city council may approve one or more relocation agreements that authorize the construction of digital billboards (i.e., billboards that use digital-display technology) on city-owned property adjacent to a freeway, subject to the following additional provisions:

a. Notwithstanding Subsection F.3 of this section, the city-owned property may be located in any commercial or industrial zone.

b. The digital-display faces must be oriented primarily for viewing from the adjacent freeway.

c. Notwithstanding any provision to the contrary in this chapter, the maximum height of a digital billboard, measured from grade to the top of the digital-display face, is 85 feet; and the overall maximum height, measured from grade to the top of the billboard structure, is 90 feet.

d. Notwithstanding any provision to the contrary in this chapter, each digital billboard may have either one or two display faces, and the maximum area of each display face is seven hundred (700) square feet.

e. Notwithstanding any provision to the contrary in this section, an existing offsite sign that is removed and relocated under a relocation agreement that authorizes the construction of a digital billboard may be either a legal conforming sign or a legal nonconforming sign.

f. A digital billboard may display only a series of still images, each of which is displayed for at least eight seconds. The still images may not move or present the appearance of motion and may not use flashing, scintillating, blinking, or traveling lights or any other means not providing constant illumination. Transition or blank screen time between one still image and the next may not exceed one second.

g. The city council may include in a relocation agreement that authorizes a digital billboard any other requirements and restrictions it considers to be in the best interests of the city.

h. The city must comply with the California Environmental Quality Act before approving a relocation agreement that authorizes a digital billboard.

7. Consistency with Outdoor Advertising Act. In addition to the other requirements set forth above, the relocated offsite sign shall comply with the requirements of the Outdoor Advertising Act, chapter 2 in division 3 of the California Business and Professions Code, including but not limited to the restrictions on size, height, proximity to interstate and primary highways and landscaped freeways, and other regulations set forth in articles 7 and 8 of the act. To the extent any conflict arises between this section and the Outdoor Advertising Act, the Outdoor Advertising Act will prevail.

G. Findings. A relocation agreement may be approved if the council makes the following findings concerning the signage proposed for relocation pursuant to the relocation agreement;

1. The relocated signage complies with the purpose and requirements of this section and this chapter;

2. The relocated signage is compatible with the uses and structures on the site and in the surrounding area, including parks, trails and other public facilities and amenities;

3. The relocated signage will not interfere with onsite access, circulation or visibility;
 4. The relocated signage will not create a traffic or safety hazard;
 5. The relocated signage will not result in any undue or significant increase in visual clutter in the area surrounding the new site;
- H. Removal of existing offsite sign: The offsite sign(s) approved for relocation must be removed from the original site(s) prior to construction or installation of the offsite sign(s) authorized by the relocation agreement. (Ord. 2002-005 § 1, 2002)

ORDINANCE NO. 2010-__

AMENDING SECTION 15.148.815 OF THE SACRAMENTO CITY CODE, RELATING TO DIGITAL BILLBOARDS ON CITY-OWNED LANDS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. The city council hereby finds as follows:

- A. On October 16, 2007, the city council adopted Ordinance No. 2007-079, which prohibits the construction of new billboards. In support of the prohibition, the city council found that billboards can cause long-lasting aesthetic harm and produce visual clutter that distracts from the attractiveness of the city. The prohibition has no automatic expiration date and remains in effect until repealed or superseded.
- B. Ordinance No. 2007-079 provides a limited exception to the prohibition, as it retains the city's ability to enter into relocation agreements under which new billboards may be constructed in exchange for the permanent removal of existing billboards. Section 15.148.815 of the Sacramento City Code prescribes when and how the city may enter into a relocation agreement.
- C. Section 15.148.640 of the Sacramento City Code prohibits signs that are animated by means of flashing, scintillating, blinking, or traveling lights or by any other means not providing constant illumination. The city has interpreted this prohibition to cover signs illuminated by light-emitting diodes, or LED's, which could include digital billboards, i.e., billboards that use digital-display technology.
- D. Taken together, Ordinance No. 2007-079 and Section 15.148.640 of the Sacramento City Code prohibit the construction of digital billboards within the city. The city council now desires, however, to authorize the limited use of relocation agreements for the construction of digital billboards on certain city-owned lands. Limiting the construction of digital billboards to city-owned property will prevent the uncontrolled proliferation of digital billboards throughout the city. Moreover, because the city will own the property on which digital billboards are constructed, the city will be able to control the location, design, and operation of the billboards as well as the content and appearance of the messages displayed. This control, together with the mandatory use of relocation agreements, will enable the city to (1) avoid potential hazards to motorists and pedestrians, (2) ensure that the design of each digital billboard is harmonious with the surrounding area, (3) reduce visual clutter that results from excessive and confusing sign displays, and (4) improve the appearance of the city. At the same time, the city will be able to assess the use of this new technology while generating additional revenue for municipal purposes.

Section 2. Subsection F.6 in Section 15.148.815 of the Sacramento City Code is

hereby amended to read as follows:

6. Digital Billboards on City Land. Notwithstanding Section 15.148.640, the city council may approve one or more relocation agreements that authorize the construction of digital billboards (i.e., billboards that use digital-display technology) on city-owned property adjacent to a freeway, subject to the following additional provisions:
 - a. Notwithstanding Subsection F.3 of this section, the city-owned property may be located in any commercial or industrial zone.
 - b. The digital-display faces must be oriented primarily for viewing from the adjacent freeway.
 - c. Notwithstanding any provision to the contrary in this chapter, the maximum height of a digital billboard, measured from grade to the top of the digital-display face, is 85 feet; and the overall maximum height, measured from grade to the top of the billboard structure, is 90 feet.
 - d. Notwithstanding any provision to the contrary in this chapter, each digital billboard may have either one or two display faces, and the maximum area of each display face is seven hundred (700) square feet.
 - e. Notwithstanding any provision to the contrary in this section, an existing offsite sign that is removed and relocated under a relocation agreement that authorizes the construction of a digital billboard may be either a legal conforming sign or a legal nonconforming sign.
 - f. A digital billboard may display only a series of still images, each of which is displayed for at least eight seconds. The still images may not move or present the appearance of motion and may not use flashing, scintillating, blinking, or traveling lights or any other means not providing constant illumination. Transition or blank screen time between one still image and the next may not exceed one second.
 - g. The city council may include in a relocation agreement that authorizes a digital billboard any other requirements and restrictions it considers to be in the best interests of the city.
 - h. The city must comply with the California Environmental Quality Act before approving a relocation agreement that authorizes a digital billboard.

Section 3. Section 15.148.815 of the Sacramento City Code is hereby amended by adding Subsection F.7, to read as follows:

7. Consistency with Outdoor Advertising Act. In addition to the other requirements set forth above, the relocated offsite sign shall comply with the requirements of the Outdoor Advertising Act, chapter 2 in division 3 of the California Business and

Professions Code, including but not limited to the restrictions on size, height, proximity to interstate and primary highways and landscaped freeways, and other regulations set forth in articles 7 and 8 of the act. To the extent any conflict arises between this section and the Outdoor Advertising Act, the Outdoor Advertising Act will prevail.