



Staff Report

PLANNING DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Appeals Hearing Officer

From: Amy Thompson, amy.thompson@slcgov.com or 801-535-7281

Date: September 6, 2018 (Publication Date)

Re: PLNAPP2018-00278 – Appeal of an Administrative Decision to Deny a Permit to Construct a New Billboard

Appeal of Administrative Decision

PROPERTY ADDRESS: 775 E 400 South

PARCEL ID: 16-05-303-028

ZONING DISTRICT/ORDINANCE SECTIONS:

- TSA-UN-T – (Transit Station Area – Urban Neighborhood – Transition)
- D-1 (Central Business District)
- 21A.46.160 Billboards
- Chapter 21A.12 “Administrative Interpretations”

APPELLANT: Reagan Outdoor Advertising (ROA), represented by Guy Larson

INTERPRETATION ISSUE:

Whether or not Regan Outdoor Advertising can use billboard credits from their 400 south special gateway billboard bank to construct a new billboard at approximately 775 E 400 South in the same special gateway area which is located on 400 South between 200 East and 800 East.

ZONING ADMINISTRATOR’S DETERMINATION:

Section 21A.46.160(O)(1) of the Salt Lake City Municipal Code allows the use of special gateway billboard credits to construct a new billboard in the same special gateway if the new billboard is “in a zoning district equal to or less restrictive than that from which the nonconforming billboard was removed.” The credits in Reagan’s 400 South special gateway account are from demolition of the Dunkin donuts sign at the northwest corner of 400 South and 200 East which was located in the D-1 (Central Business) zoning district. Reagan proposes constructing a new billboard at approximately 775 East 400 South, which is zoned TSA-UN-T (Transit Station Area–Urban Neighborhood–Transition). A TSA-UN-T zoning district is more restrictive than the D-1 zoning district and therefore construction of the new sign is not permitted by Salt Lake City Code. Please see [Attachment B](#) for documentation of the decision of the Zoning Administrator.

APPEAL:

The appellant claims that the Administrative Interpretation issued on April 6th 2018 is incorrect for the following reasons:

1. The City does not state how it determined that TSA-UN-T and the D-1 zoning districts have different levels of restrictions.
2. The City's adoption of 21A.26.078, which established TSA-UN-T is void and unenforceable against ROA if it is to be interpreted as the City posits.
3. The City's interpretation that the TSA-UN-T zoning district is a more restrictive zoning district than D-1 as applied to billboards would create an absurd result.
4. Should it be determined that the City's interpretation is proper, ROA is entitled to just compensation for the regulatory taking of its banked billboard credits.
5. The ordinance creating a billboard bank with expiring credits violates Section 10-9a-511(2)(b) of the Utah State Code.

Please see the City Attorney's brief, [Attachment C](#) of this document, for a response to the issues identified in this appeal.

NEXT STEPS:

If the administrative decision is upheld, the decision stands and a permit will not be issued for construction of a new billboard on the subject property.

If the administrative decision is overturned, and the appeals hearing officer determines the appellant can use their 400 S special gateway billboard credits to construct a new billboard on the subject property, the property owner can apply for a building permit to construct the sign subject to compliance with all zoning ordinance requirements. Any billboard credits not used within 36 months of their creation shall expire and be of no further value or use except that lower priority credits effectuated pursuant section 21A.46.160(F)(4), or its successor, shall expire and be of no further value or use within 60 months of their initial creation.

The decision of the appeals hearing officer can be appealed to Third District Court within 30 days of the decision.

ATTACHMENTS:

- A. [Appeal Application and Documentation of Evidence](#)
- B. [Administrative Decision Letter](#)
- C. [Salt Lake City Attorney's Response to Appeal Claims](#)

**ATTACHMENT A: APPEAL APPLICATION &
DOCUMENTATION**



Appeal of a Decision

PLNAPP2018-00278

SALT LAKE CITY PLANNING

OFFICE USE ONLY

Project # Being Appealed: BLD2018-01367	Received By: MUMA	Date Received: 4/20/18
Appealed decision made by:		
<input type="checkbox"/> Planning Commission	<input checked="" type="checkbox"/> Administrative Decision	<input type="checkbox"/> Historic Landmark Commission
Appeal will be forwarded to:		
<input type="checkbox"/> Planning Commission	<input checked="" type="checkbox"/> Appeal Hearing Officer	<input type="checkbox"/> Historic Landmark Commission
Project Name:		

PLEASE PROVIDE THE FOLLOWING INFORMATION

Decision Appealed:
Denial of billboard construction application BLD2018-01367

Address of Subject Property:
775 E 400 S

Name of Appellant:
Reagan Outdoor Advertising

Phone:
801-521-1775

Address of Appellant:
1775 N. Warm Spring Rd. SLC, UT 84116

E-mail of Appellant:
guy@reaganusa.com

Cell/Fax:
[REDACTED]

Name of Property Owner (if different from appellant):
SLC 400 South LLC

E-mail of Property Owner:
sam@thehardagegroup.com

Phone:
[REDACTED]

Appellant's Interest in Subject Property:
Leasehold interest

AVAILABLE CONSULTATION

Please call (801) 535-7700 if you have any questions regarding the requirements of this application.

APPEAL PERIODS

An appeal shall be submitted within ten (10) days of the decision.

REQUIRED FEE

Filing fee of \$253
Plus additional fee for required public notices. Additional fees for multiple hearings.

SIGNATURE

If applicable, a notarized statement of consent authorizing applicant to act as an agent will be required.

Signature of Owner or Agent:



Date:

4/20/18

SUBMITTAL REQUIREMENT

A written description of the alleged error and the reason for this appeal.

Attached hereto

WHERE TO FILE THE COMPLETE APPLICATION

Mailing Address: Planning Counter
PO Box 145471
Salt Lake City, UT 84114

In Person: Planning Counter
451 South State Street, Room 215
Telephone: (801) 535-7700

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

JKP I acknowledge that Salt Lake City requires the items above to be submitted before my application can be processed. I understand that Planning will not accept my application unless all of the following items are included in the submittal package.

Additional Guidelines for Those Appealing a Planning Commission or Landmarks Commission Decision

A person who challenges a decision by the Planning Commission or the Landmarks Commission bears the burden of showing that the decision made by the commission was in error.

The hearing officer, according to state statute, must assume that the decision is correct and only reverse it if it is illegal or not supported by substantial evidence in the record.

“Substantial evidence” means information that is relevant to the decision and credible. Substantial evidence does not include public clamor and emotion. It involves facts and not mere speculation. A witness with particular expertise can provide substantial evidence, but conjecture and public opinion alone are not substantial evidence.

The “record” includes information, including the application by the person seeking approval, the staff report, the minutes of the meeting, and any information submitted to the commission by members of the public, the applicant or others, before the decision was made. It does not include facts or opinion, even expert opinion, expressed after the decision is made or which was not available to the commission at the time the decision was made.

A decision is “illegal” if it is contrary to local ordinance, state statute or case law, or federal law. An applicant is entitled to approval if the application complies with the law, so a person challenging a denial should show that the application complied with the law; a person challenging an approval should show that the application did not conform to the relevant law. Issues of legality are not restricted to the record of the decision, but the facts supporting or opposing the decision are limited to those in the record.

With regard to the factual information and evidence that supports a decision, the person bringing the appeal, according to a long line of decisions handed down by the Utah State Supreme Court and the Court of Appeals, has a burden to “marshal the evidence” and then to demonstrate that the evidence which has been marshaled is not sufficient to support the decision.

The appellant is therefore to:

1. Identify the alleged facts which are the basis for the decision, and any information available to the commission when the decision is made that supports the decision. Spell it out. For example, your statement might begin with: “The following information and evidence may have been relied upon by the Commission to support their decision . . .”
2. Show why that basis, including facts and opinion expressed to the commission is either irrelevant or not credible. Your next statement might begin with: “The information and evidence which may have been relied upon cannot sustain the decision because . . .”

If the evidence supporting the decision is not marshaled and responded to, the hearing officer cannot grant your appeal. It may be wise to seek the advice of an attorney experienced in local land use regulation to assist you.

Reasons for Appeal:

By letter sent via email on April 10, 2018, the City denied Reagan Outdoor Advertising's ("ROA") application to utilize banked special billboard credits to construct a new billboard at 775 East 400 South (BLD2018-01367). (This property is the northwest corner of 800 East and 400 South.

The stated reason for the City's rejection was as follows:

The credits in Reagan's 400 South special gateway account are from demolition of the Dunkin Donuts Sign, which was located in the D-1 zone. Reagan proposes constructing a new billboard at 775 East 400 South, which is zoned TSA-UN-T. A TSA-UN-T zoning district is more restrictive than the D-1 zone. Accordingly, the new construction is not permitted by Salt Lake City Code and the billboard construction application BLD2018-01367 is denied.

See letter, attached hereto.

The City's denial of ROA's application is incorrect for the following reasons:

1. The City does not state how it determined that the two zoning districts have different levels of restrictions, but an examination of the relevant ordinances demonstrates that the City's determination is incorrect. Restrictions on billboards are equal in both districts, as neither the TSA-UN-T zone, where Reagan proposes to relocate, nor the D-1 zone, where Reagan removed a sign, allows billboards as a permitted use. *See* Salt Lake City Code §§ 21A.46.110; 21A.46.095. Reagan may move its billboard from its original location on the northeast corner of 200 East and 400 South to the new location on the northwest corner of 800 East and 400 South because of the 400 South Special Gateway District provisions in the Billboard Ordinance. *See* SLC Code § 21A.46.160(B) (defining "Special Gateway" as including "400 South between 200 East and 800 East"); § 21A.46.160.O (allowing movement of billboards within Special Gateway Districts). The hierarchy between the two zoning districts is also set out in the Billboard Ordinance:

F. Priority For Removal Of Nonconforming Billboards: Nonconforming billboards shall be removed subject to the following priority schedule:

1. Billboards in districts zoned residential, historic, residential R-MU or downtown D-1, D-3 and D-4 shall be removed first;
2. Billboards in districts zoned commercial CN or CB, or gateway or on gateways shall be removed second;
3. Billboards which are nonconforming for any other reason shall be removed last....

Salt Lake City Code 21.22.010(F).

Thus, by ordinance, removal of billboards from downtown districts has a greater priority than removal from commercial and gateway districts.

The sign that Reagan removed was in a D-1 zone, specifically referenced in 21.22.010(F) as a top priority for removal. The TSA-UN-T zone, where Reagan proposes to relocate, is a commercial district. *See* Salt Lake City Code §§ 21A.22.010(A). Reagan's proposal complies with the hierarchy spelled out by the Billboard Ordinance.

Thus, the City incorrectly determined that Reagan's proposal must be rejected for the reason stated in its letter.

2. The City's adoption of 21A.26.078, which established zoning district TSA-UN-T, is void and unenforceable as against ROA if it is to be interpreted as the City posits. The Transit Station Area District appears to have been enacted sometime after September 18, 2012. *See* excerpt of 9/18/12 City Council meeting minutes attached hereto as **Exhibit A**. The City's interpretation that TSA-UN-T is more restrictive would result in a *de facto* elimination of the 400 South Special Gateway. (*See* detailed discussion in paragraph 3 below). Accordingly, it was required to give ROA written notice of its intent to rezone the area. Utah Code section 72-7-506 provides that

Any county, municipality, or governmental entity shall, upon written request, give reasonably timely written notice to all outdoor advertising permit holders within its jurisdiction of any change or proposed change to the outdoor or off-premise advertising provisions of its zoning provisions, codes, or ordinances.

See Utah Code Ann. §72-7-506(2)(b).

Before establishment of the TSA zoning districts, ROA had on file with the City written request for written notice of any change or proposed change to zoning provisions. *See e.g.* requests for notice attached hereto as **Exhibit B**. Prior to enactment of the TSA zoning districts, the City failed to give ROA the statutorily required written notice. Pursuant to well-established case law, the ordinance is therefore "invalid and void ab initio." *Call v. City of W. Jordan*, 727 P.2d 180, 183 (Utah 1986) (failure to strictly follow notice requirements renders ordinance void).

3. The City's interpretation that TSA-UN-T is a more restrictive zoning district than D-1 as applied to billboards would create an absurd result. Salt Lake City Code 21A.46.460(B) provides that "400 South between 200 East and 800 East" is a "Special Gateway." The billboard that was demolished by ROA, and resulted in the banked credits it has applied to use, was in this Special Gateway. Salt Lake City Code 21A.46.460(O), the ordinance the City relied on to deny the application, provides that if a billboard is demolished within a Special Gateway, a replacement may only be constructed within the same Special Gateway. According to the City's current zoning map, other than the location where the demolished billboard stood and one isolated spot on the SW corner of 800 E and 400 S, the entirety of the 400 South special gateway falls within a TSA zoning district.¹ *See* zoning map attached hereto as **Exhibit C**. Ordinances

¹ Limiting ROA's ability to utilize its banked credits only on one small parcel in the entire special gateway would also be an absurd result.

and statutes should not be interpreted in a way that may “render some part of a provision nonsensical or absurd.” *Marion Energy, Inc. v. KFJ Ranch P'ship*, 2011 UT 50, ¶ 26, 267 P.3d 863. “In defining the parameters of what constitutes an absurd result, we have noted that such a result must be so absurd that the legislative body which authored the legislation could not have intended it.” *Id.*

The Salt Lake City Council could not have intended that a billboard demolished within the 400 South Special Gateway could never be reconstructed. This interpretation would render the entirety of Salt Lake City Code 21A.46.460(O) superfluous. Presuming that the Salt Lake City Council intended to render this ordinance superfluous is contrary to a long lineage of existing precedent. *See e.g. Wasatch Crest Ins. Co. v. LWP Claims Adm'rs Corp.*, 2007 UT 32, ¶ 9, 158 P.3d 548, 551 (presume that terms used advisedly and avoid interpretations that will render portions of a statute superfluous or inoperative). It must be presumed that the Salt Lake City Council intended for 21A.46.460(O) to be operative. The only means to effectuate this intention is to allow banked credits to be utilized within the 400 South special gateway.

The City’s intent is also reflected in several other actions, including its failure to enact a 2011 effort by the mayor’s office to eliminate the 400 South Special Gateway. *See* documents attached collectively as **Exhibit D**. The City’s “Official Billboard and Gateway Map” still references the 400 South Special Gateway and the applicable ordinance are still operative. *See Exhibit E* hereto. A review of the City’s internal document management system evidences that the individuals tasked with reviewing ROA’s application determined on March 8, 2018, after a comprehensive zoning review, that “all zoning issues have been resolved.” *See* ProjectDox Notes attached hereto as **Exhibit F**. Thereafter, the application sat dormant for more than a month until ROA received notification on April 10, 2018 that its application had been denied. This is apparently due to a novel, but incorrect interpretation that the new zoning district is more restrictive.

4. Should it be determined that the City’s interpretation was proper, ROA is entitled to just compensation for the regulatory taking of its banked billboard credits. A regulatory taking “transpires when some significant restriction is placed upon an owner’s use of his property for which justice and fairness require that compensation be given.” *Tolman v. Logan City*, 2007 UT App 260, ¶ 8, 167 P.3d 489. As set forth above, the City’s denial of the application has prevented ROA from utilizing the credits that were properly banked pursuant to Salt Lake City Code 21A.46.160(O). Therefore, the banked credits, in which ROA has a vested property right, have been rendered worthless. ROA “has been deprived of all reasonable or economically viable uses” if its property and just compensation is required. *Id.* at ¶ 11. Just compensation in connection with billboards is statutorily determined as “an amount that is: (i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense; (ii) the value of any other right associated with the billboard structure that is acquired; (iii) the cost of the sign structure; and (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner’s interest is a part.” *See* Utah Code Ann. Section 10-9a-513(2)(d).

5. The ordinance creating a billboard bank with expiring credits violates state law. The point system that calls for point expiration after 36 months is, in effect, an amortization of

the billboards. This is in violation of Section 10-9a-511(2)(b) of the Utah Code which prohibits municipalities from terminating these nonconforming billboards or amortizing billboards. This Section of the code, which has constitutional takings underpinnings, is designed to prevent the takings the City has attempted under the current ordinance.

EXHIBIT A

EXHIBIT A

September 18, 2012

The City Council of Salt Lake City, Utah, met in Regular Session on Tuesday, September 18, 2012 at 7:30 p.m. in Room 315, City Council Chambers, City County Building, 451 South State.

The following Council Members were present:

Carlton Christensen	Charlie Luke	Kyle LaMalfa
Jill Remington Love	Luke Garrott	Stan Penfold
Soren Simonsen		

Cindy Gust-Jenson, Executive Council Director; Edwin Rutan, City Attorney; Ralph Becker, Mayor; David Everitt, Mayor's Chief of Staff; Cindi Mansell, City Recorder; and Beverly Jones, Deputy City Recorder; were present.

Councilmember Simonsen presided at and conducted the meeting.

OPENING CEREMONY

#1. 7:31:22 PM The Council led the **Pledge of Allegiance**.

#2 7:31:40 PM Councilmember LaMalfa moved and Councilmember Love seconded to approve the Salt Lake City Council minutes for **Tuesday, September 4, 2012**, which motion carried, all members voted aye. [View Attachments](#)

PUBLIC HEARINGS

#1. 7:31:58 PM RE: Accept public comment and consider adopting an ordinance amending Salt Lake City Code relating to **solid waste and recyclable items**. (Sections 9.08.010, 9.08.030, 9.08.095 and 9.08.115). *The proposed amendments would provide curbside collection of recyclable glass from residents, allow an additional waste collection container for residents at no additional charge and establish fines for noncompliance.* [View Attachments](#)
(O 09-14)

Councilmember Garrett moved and Councilmember Penfold seconded to **close the public hearing**, which motion carried, all members voted aye.

Councilmember Garrett moved and Councilmember Penfold seconded to adopt **Ordinance 68 of 2012**, which motion carried, all members voted aye.

#2. 7:33:33 PM RE: Historic Preservation - Items a-d

a. Accept public comment and consider adopting an ordinance to provide clarity and efficiency relating to the **Historic Preservation Overlay zoning regulations** pursuant to Petition No. PLNPCM2011-00470. (The process and criteria for establishing an historic district is

policies for mixed use development and transportation options on the blocks adjacent to the 400 South transit corridor from 200 East to 1000 East. Properties in this corridor would be rezoned from their existing zoning classifications to the Transit Station Area (TSA) zoning districts. In addition, the proposal would establish new zoning regulations for this area. Related provisions of Title 21A, Zoning, may also be amended as part of this petition. (Petitioner Mayor Ralph Becker) [View Attachments](#)
(P 12-12)

9:30:55 PM Councilmember Garrett moved and Councilmember Love seconded to adopt an ordinance to rezone properties along 400 South from 200 East to 1000 East to Transit Station Area (TSA) zoning classifications; adjust related Transit Station Area zoning regulations; amending the Central Community Master Plan with changes identified by the City Council for the TSA zoning regulations and design or development standards including: increase the development review points awarded for designation of a building to the Salt Lake City Register of Cultural Resources equal to points awarded for parking structures (i.e. 50 points); the Council request the Administration prioritize complete streets development within ½ mile of the transit stations along the 400 South corridor from 200 East to 1000 East and provide a proposal to the Council in the next budget amendment with a timeline for completing the project within 18 months; address front yard setback regulations by adding the following language: "For properties that front on 300 South, 500 South or 600 East, the front yard setback shall be equal to the average front yard setback of the properties on the same block face"; and modify the TSA Development Guidelines to: not allow points for redevelopment of a nonconforming use or non-complying building if the project would negatively impact a property within the Historic Preservation Overlay District and add a specific guideline that grants 20 points for projects that are adjacent to a local or national designated property that are compatible with the historic property through building mass and building setbacks and design features as determined by the Planning Director; and lighting standards be developed along this corridor that will address issues of quality of life of neighboring properties.

9:33:52 PM Councilmember LaMalfa offered a recommendation to amend the motion to withdraw the Council request the Administration prioritize complete streets development within ½ mile of the transit stations along the 400 South corridor from 200 East to 1000 East and provide a proposal to the Council in the next budget amendment with a timeline for completing the project within 18 months.

9:34:20 PM Councilmember Garrett did not accept the proposed amendment.

9:34:33 PM Councilmember Penfold moved and Councilmember Christensen seconded a substitute motion to adopt [Ordinance 66 of 2012](#) to rezone properties along 400 South from 200 East to 1000 East to Transit Station Area (TSA) zoning classifications; adjust related Transit Station Area zoning regulations; amending the Central Community Master Plan with changes identified by the City Council for the TSA zoning regulations

EXHIBIT B

EXHIBIT B

Salt Lake City
City & County Bldg.
451 S. State St.
Salt Lake City, Utah 84111
Attn: Planning Department

Re: Notification of changes or proposed changes of zoning provisions, codes or ordinances

Gentlemen:

This office represents R.O.A. General dba Reagan Outdoor Advertising ("Reagan"). On behalf of Reagan, we wish to remind you of the following provisions of Utah's Outdoor Advertising Act:

[A]ny county, municipality, or governmental entity shall, upon written request, give reasonable timely written notice to all outdoor advertising permit holders within its jurisdiction of any change or proposed change to the outdoor or off-premise advertising provisions of its zoning provisions, codes, or ordinances.

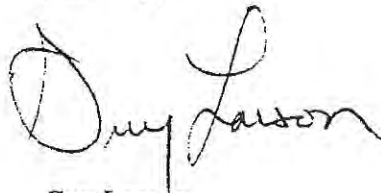
U.C.A. §72-7-506(2)(b).

Reagan holds outdoor advertising permits within your jurisdiction. While it has previously provided written request therefor, Reagan hereby reiterates that request. Please note that changes to your zoning provisions, codes, or ordinances, would include any moratorium on outdoor advertising in your jurisdiction.

Please send the notice to the following address:

Urgent Attention: Real Estate Manager at Reagan Outdoor Advertising
1775 North Warm Springs Road
Salt Lake City, Utah 84116

Sincerely,



Guy Larson
Lease Manager

GL:lg
cc: Dewey Reagan

Reagan
Advertising

7000 0520 0022 9391 2860

**U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)**

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$2.44	

Recipient's Name (Please Print Clearly) (To be completed by mailer)
Salt Lake City

Street, Apt. No., or PO Box No.

City, State, ZIP+4

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
*Salt Lake City
 City & County Bldg.
 451 S. State St.
 Salt Lake City, Utah
 84111*

2. Article Number (Copy from service label)
7000 0520 0022 9391 2860

COMPLETE THIS SECTION ON DELIVERY

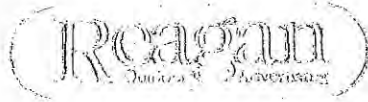
A. Received by (Please Print Clearly) *JOHN K HALPERN* B. Date of Delivery *JUN 12 2001*

C. Signature *[Signature]* Agent Addressee

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below: _____

3. Service Type Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes



May 18, 2006

Salt Lake City
City & County Bldg.
451 S. State St.
Salt Lake City, UT 84111

Re: Request for written notification of changes or proposed changes to laws, provisions, ordinances or policies regarding outdoor advertising, billboards, and off premise advertising.

To all elected officials and staff:

As you are probably aware Section 72-7-506(2)(b) of the Utah Code states:

"[any] county, municipality, or governmental entity shall, upon written request, give reasonable timely written notice to all advertising permit holders within its jurisdiction of any change or proposed change to the outdoor or off premise advertising provisions, codes, or ordinances."

In view of this law Reagan Outdoor Advertising (ROA), on behalf of itself and any of its affiliates and assigns (including, but not limited to, RTM Media, Erin Outdoor, and Condor II, L.P.) periodically sends letters such as this one to governmental entities to give written request that all such entities give "reasonable timely written notice" to all outdoor advertising permit holders in your jurisdiction of any change or proposed change to your zoning provisions, codes or ordinances that in any way concern off premise, billboard or outdoor advertising. Please note that proposed changes to outdoor advertising or off premise advertising would include any moratorium or proposed moratorium to outdoor advertising in your jurisdiction.

ROA or its affiliates may hold outdoor advertising permits within your jurisdiction. While ROA has previously provided a written request for the notice required by Section 72-7-506 (2)(b) of the Utah Code, as a courtesy ROA reminds you of its previous requests, and renews all such previous requests with this letter.

ROA's property rights within your jurisdiction are extremely valuable and any changes to your ordinances affecting billboards and off premise advertising are of great interest and vital concern to ROA and its affiliates. Hence, the notice ROA is hereby requesting is vital and very much appreciated.

We ask that any notice of any changes whatsoever to your codes or ordinances affecting billboards, outdoor advertising or off premise advertising be sent to the following address:

Real Estate manager
Reagan Outdoor Advertising
1775 Warm Springs Road
Salt Lake City, UT 84116

Very Truly Yours:

A handwritten signature in black ink, appearing to read "Guy Larson". The signature is written in a cursive style and is positioned above the typed name and title.

Guy Larson
Real Estate Manager
Reagan Outdoor Advertising

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X <i>Michael [Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p>Salt Lake City 451 So. State St. Salt Lake City, UT 84111</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7004 2890 0001 9122 5187</p>

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

7004 2890 0001 9122 5187

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
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OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To *Salt Lake City*

Street, Apt. No., or PO Box No.

City, State, ZIP+4

PS Form 3800, June 2002 See Reverse for Instructions

EXHIBIT C

EXHIBIT C

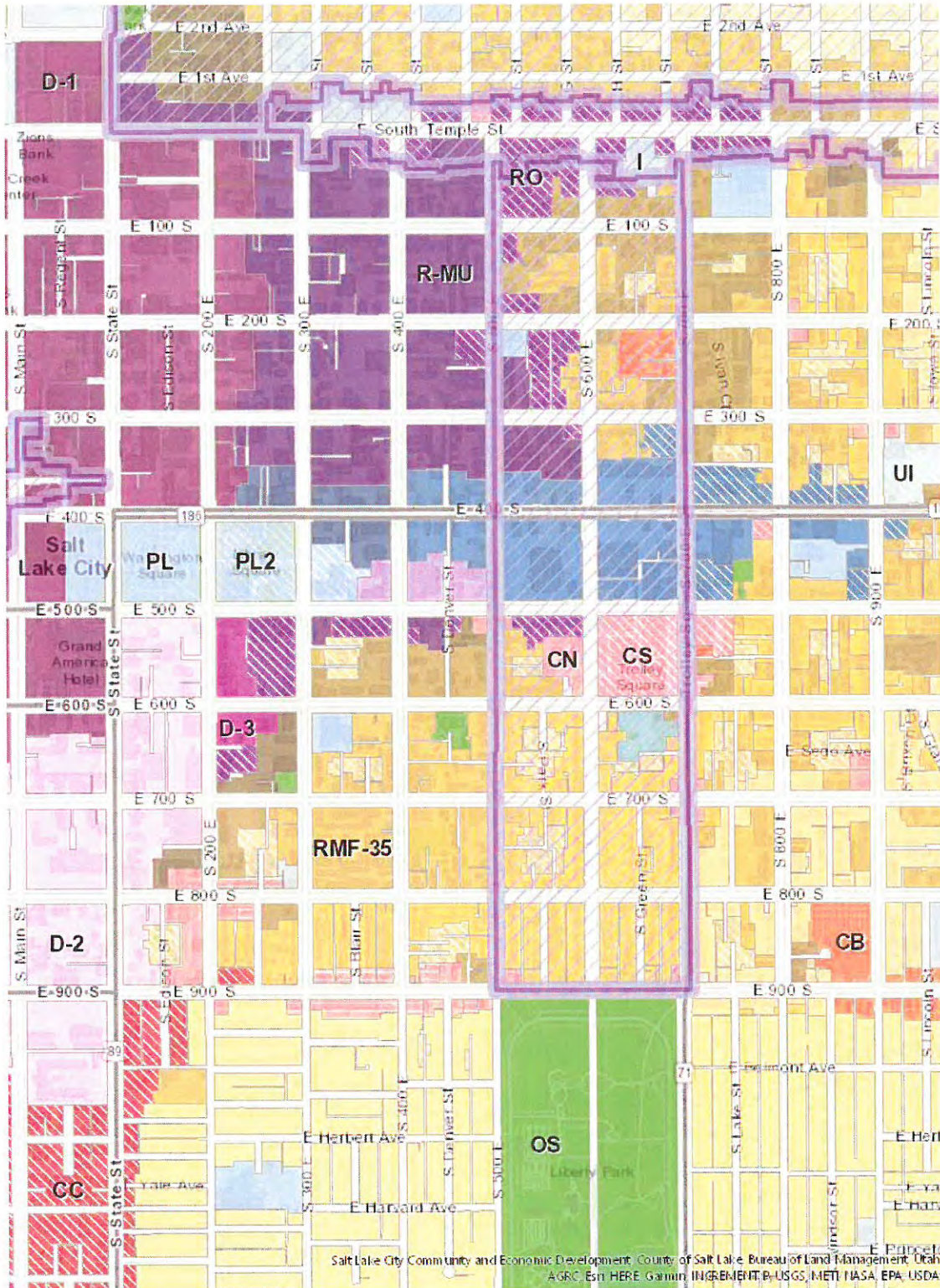


EXHIBIT D

EXHIBIT D

SALT LAKE CITY PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, February 23, 2011

Present for the Planning Commission meeting were Chair Michael Fife, Vice Chair, Angela Dean, Commissioners Emily Drown, Babs De Lay, Michael Gallegos, Charlie Luke, and Mary Woodhead. Commissioner Kathleen Hill, Susie McHugh and Matthew Wirthlin were excused.

The scheduled field trip was cancelled.

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at 5:45 p.m. Audio recordings of the Planning Commission meetings are retained in the Planning Office for an indefinite period of time. Planning staff members present at the meeting were: Wilf Sommerkorn, Planning Director; Joel Patterson, Planning Manager; Doug Dansie, Senior Planner; Casey Stewart, Senior Planner; Michael Maloy, Principal Planner; and Paul Nielson, Land Use Attorney; and Angela Hasenberg, Senior Secretary.

5:39:46 PM

Work Session

Debbie Lyons, the Recycling Coordinator for the City spoke and answered questions that the Planning Commission had asked in a prior meeting.

- What are the items the City currently recycles.
 - In the curbside program, any paper products, cardboard, office paper, colored paper, newspaper, magazines, phone books, aluminum cans, tin cans, and plastics. No glass in the curb side program.
- Why doesn't the City recycle glass?
 - There is a limited market for recycled glass. Brown glass cannot be recycled locally.
- What other items can be recycled out of demolition debris.
 - Scrap wood, scrap metal, concrete, asphalt, trees and stumps during land clearing. Plate glass and carpet scraps.
- How do you mandate recycling.
 - There is an ordinance that requires recycling and there this staff that periodically checks recycling and will issue warning tags. There is no fine associated with it and it applies only to residences. The new ordinance would require recycling for businesses.
- What is the City doing to encourage recycling companies to Salt Lake City.
 - There is a quantity of scale to make it worth recycling certain items. The more we recycle the more jobs are produced. There is a program

in place called the Recycle Marketing Development Zone Program. It designates an area of the City where if manufacturers or companies use recycled items in their process they would get income tax credits to relocate there and use the products available after recycling.

- Business Advisory Committee asked if there were any financial incentives for commercial uses to recycle.
 - The biggest incentive would be that they would reduce their trash costs.
- How is the waste and recyclables separated and who does it?
 - Curb side waste is separated mechanically at processing plants. There are three facilities within the Salt Lake valley that do that, and there is another large construction waste facility that separates construction waste.

Discussion followed about the recycling policy within City Hall.

PLNPCM2010-00612 Accessory Dwelling Unit – A request by Mayor Ralph Becker for a zoning text amendment to allow accessory dwelling units within single-family and multi-family residential districts. This request is part of the Sustainability Code Amendment Project. (Staff contact: Michael Maloy at 801-535-7118 or michael.maloy@slcgov.com.)

Mr. Michael Maloy stated that he provided the Planning Commission with a rough draft regarding Accessory Dwelling Units.

He stated that staff has further extended the definition of owner occupancy within the draft, and was based on a similar regulation that Provo City had adopted and had been successfully upheld by a challenge that was reviewed by the Utah State Supreme Court.

There was another component to the definition that will be added in a later draft.

Mr. Maloy stated that Clarion and Associates took all the public comment and it part of the revised the draft available tonight.

Mr. Maloy stated that an idea that seemed to be well accepted in the community was a limited roll out of the program with a limit of 25 permits issued per calendar year. The language would be included that would allow the City to re-evaluate the impact of the ordinance and present a report to the City Council to determine whether or not they would like to modify it.

Mr. Maloy added that Seattle had done something similar and issued 50 permits per calendar year, but Seattle was roughly twice the size of Salt Lake City.

Mr. Maloy stated that there was feedback from the community suggesting the idea of a type of geographic restriction. An idea proposed was to limit Accessory Dwelling Units

(ADU's) within a certain distance from fixed transit; however it was not included in the proposal.

Mr. Maloy added a clarification of a potential of having an ADU in a detached structure like a garage was made. The language had been revised to better regulate building height requirements

Mr. Maloy asked for commentary and direction from the Planning Commission.

Mr. Maloy gave a request from the Accessibility Advisory Council and they made a motion as a committee that they would like to have the Planning Commission address two issues:

- Size of an ADU could be 50% of the square footage of the existing single family dwelling or 650 sq or whichever is less. The advisory committee would like to add 150 sq feet to the total if the structure met a visibility standard, i.e. no threshold and no steps up into the property, and would need larger hallways to allow for wheelchair accessibility.
- A request had been made in order to encourage ADA accessibility, that five of the twenty five permits would be required to meet the visible standard.

Commissioner Luke asked about home occupations.

Mr. Maloy stated that the standard for the ADU ordinance states that an owner must live on the property and could live in either the single family dwelling or the accessory unit. Mr. Maloy added that there was language that could allow a person living within the ADU to have a home occupation, like a home office.

Commissioner Luke was concerned about enforcement. He stated that he understood that at this time the City was having a difficult time enforcing rentals units and was concerned that enforcement would be problematic.

Mr. Maloy answered that the City was working a "good landlord" program which would require a license for every unit in the City that was rented. There would be a fee collected from the ADUs and the "good landlord" program and the idea was that the money would be used toward enforcement.

The Planning Commissioners and Mr. Maloy discussed ideas regarding Accessory Dwelling Units.

6:51:42

Public Hearing

- 1. Petition 400-06-51: Zoning Text Amendment, Transit Shelter Advertising -**
A request for a zoning text amendment to address advertising on Bus Shelters. The text amendment would affect all zoning districts. (Staff contact: Doug Dansie at 801-535-6107 or doug.dansie @slcgov.com)
- 2. PLNPCM2010-00032: Zoning Text Amendment, Billboards -** A request by Salt Lake City Mayor Becker for a zoning text amendment to address outdoor billboards. The proposed amendment would update current regulations for outdoor billboards to make them consistent with state law. The text amendment would affect all zoning districts. (Staff contact: Doug Dansie at 801-535-6107 or doug.dansie @slcgov.com)
- 3. PLNPCM2010-00717: Zoning Text Amendment, Electronic Billboards -** A request by Salt Lake City Mayor Becker for a zoning text amendment to address electronic billboards. Currently, the City Zoning Ordinance does not address electronic billboards. The text amendment would affect all zoning districts. (Staff contact: Doug Dansie at 801-535-6107 or doug.dansie @slcgov.com)

Chairperson Fife recognized Doug Dansie as staff representative.

Commissioner Luke recued himself due to a conflict, as he was retained by Reagan Signs.

Chairperson Fife explained that Commissioner Luke would still be part of the meeting to maintain a quorum.

Land Use Attorney Paul Nielson stated that the City Ordinance was very specific as to how many members of a Planning Commission constitute a quorum, and the number is six.

Chairperson Fife noted that there were six commissioners in attendance.

Mr. Dansie stated that the three petitions had to do with off premise advertising. The first petition, 400-06-51 Zoning Text Amendment, Transit Shelter Advertising and was a somewhat older petition that dealt with the issue of transit shelter advertising, and bus bench advertising. Staff was recommending not taking action and postponing until the administration had more time to discuss it internally.

The next two petitions, PLNPCM2010-00032 dealt with the City's bill board ordinance, and updating it to conform to State law and to simplify it.

PLNPCM2010-00717, involved addressing the issues of electronic signs. The current ordinance talked about electronic on-premise signs, but is silent about off premise electronic signage.

Mr. Dansie explained the comparison of Salt Lake City Ordinance to Salt Lake County Ordinance. Mr. Dansie explained that in the first public hearing, Commissioner Horiuchi spoke of Salt Lake County's Ordinance, this discussion carried over into the

first subcommittee meeting. In response, Staff created an outline comparing what a zone in the County looks like compared to what a zone in the City looked like.

Mr. Dansie explained that there were several maps that were included in the staff report that illustrated the comparable zoning districts within SLC.

The conclusion was that Salt Lake City is stricter about the extent of commercial uses that would be allowed in residential areas.

Mr. Dansie stated that Staff's recommendation was that there was a Draft Ordinance that would eliminate the Bill Board bank; in 1993 a bank was set up wherein a billboard company could take down a board, they could deposit the credit for it and had three years to move the bill board. Salt Lake County and the City of Layton both utilized a bill board bank; however, most communities did not.

The purpose of the bank was to give a priority system to encourage bill boards to move out of neighborhood, commercial, historic neighborhood zoning districts and relocate them to a more appropriate area.

Since then, State law had changed and gave the bill board companies the right to move their bill boards within the distance of their existing locations. Many of the most controversial boards that were located within residential zoning districts, the land under them was owned by the bill board company so there was no incentive to move the bill board.

The response was that the bank was eliminated, but the priority system remained. A new map was created, and expanded the area billboards would be allowed to move to. Staff simplified Salt Lake City's law to say that bill boards could move consistent with State law. State law allowed the bill board to move in the direct vicinity. It also allowed cities a change to negotiate a place to move to.

The new map showed the City's policy, on top of what the State will allow a bill board company to do; the City will allow a billboard to move to a general commercial or manufacturing zoning district as long as they were not located on a gateway street or within 600 ft of a residential area. Excluded was the CG zoning in the granary district, because it was part of the Master Plan to be rezoned into a mixed use zoning.

Mr. Dansie continued that policy wise, the City did not change its policy of "gateway streets", some streets were added, 5600 West, Mountain View Corridor and 7200 West to the list of "gateway streets".

Changes were that the time frame of three years to move, the move needs to occur at the same time.

Mr. Dansie added that in terms of electronic billboards, in the draft electronic bill boards were defined, and limitations were placed on them, but they were basically prohibited.

The ordinance defined electronic billboards and then prohibits them

Planning Director Sommerkorn added that the Ordinance reflected the Mayor's position.

Mr. Dansie explained that defining what an electronic bill board was gave a chance to outline rules.

Commissioner Woodhead asked why the Mayor wanted to prohibit electronic signs.

Planning Director Sommerkorn stated that he had not heard the Mayor's rationale.

Mr. Dansie replied that one of the reasons would be that billboards could potentially stifle development. The signs were considered personal property, after 19 years they were taxed on 8% of their original value so they did not generate revenue for the City. Part of the issue was the trend of switching bill boards to electronic.

According to State law if a bill board wanted to move, the bill board company could move, or the City could have the option of purchasing it.

Commissioner Woodhead clarified stating that the City did not control the whole picture, and the parts they did not control made it difficult for the City to meet its' policy goals.

Commissioner Dean stated that the subcommittee met a number of times but a consensus was never reached, but there was a benefit in asking questions and getting feedback in terms of assessing where the bill boards were now and understanding the distribution, understanding where other areas could be opened to billboards. She felt that great headway had been made.

Commissioner Dean addressed the topic of Electronic billboards, she noted that they learned that bill board companies increase their advertising ability without benefit to the City, there was not motivation offered by the industry to remove two boards to get one big electronic billboard. If the City were not to receive any benefit or reduction in billboard advertising over all, there was no motivation for the Planning Commission to move forward.

Mr. Dansie noted that there were other options to consider

Chairperson Fife added that he appreciated the change in the bus stop advertising. He stated that he was certain that people would not appreciate transit shelter advertising in their front yards.

Mr. Dansie stated that it was an issue within the industry, in the prior administration it had been suggested as a way of financing public amenities, but it was decided that it needed more discussion.

7:12:55

Public Hearing

Chairperson Fife opened the public hearing.

Jared Johnson spoke in OPPOSITION to the Ordinance. He stated that he had not had a chance to read the staff report. He added that his impressions of the Ordinance as it was written were that some of the issues that were problems, such as the billboard bank, had been dealt with, but other issues that were difficult to deal with in the past were still there, and some had even become even more difficult.

Mr. Johnson stated that Chairperson Fife had illustrated one of the issues that electronic bill boards were defined, and then prohibited but also included a set of rules.

Mr. Johnson added that they had put a lot of time into presenting the Planning Commission with a lot of information; he appreciated the time and effort of some of the Planning Commissioners that gave extra time on the subcommittee. He felt that headway had been made in informing the Commission and staff of the issues of brightness and how the control of brightness and the limits the industry had used on existing electronic bill boards were adequate.

He stated that the issues that YESCO had were:

- Definitions of luminance and illuminance which have technical differences.
- Relocation of billboards. YESCO was able to move bill boards by State Statute; the City has the option to allow the move under the Statute or to purchase the bill board. He believed that City Ordinance and State Statute contradict each other. Did staff measure the Ordinance against State Statute and were they aware that they contradict.
- What would be done if an electronic sign needed to be moved.

Mr. Johnson felt that there were more issues to clarify and that they supported bringing in more experts and talking more. He added that YESCO's position was that the Ordinance was rushed and left many contradictions and concerns.

Greg Simonsen spoke in OPPOSITION to the Ordinance. He stated that he was council for Reagan Signs and other companies within the industry.

Mr. Simonsen stated that with respect with item Q listed in the staff report, he stated that it was a provision that had not been seen in previous drafts and that it read that bill boards located within Residential/Mixed Use, CMC or CB Zoning districts may not be illuminated or lit between the hours of midnight and 6:00 am. He asked for clarification on whether this applied to new billboards or was the City attempting to limit existing billboard lighting.

Mr. Simonsen stated that some billboard companies had been placing footage into the bank, and the billboard bank was closing, if that is the case, what would happen to the footage. He stated that it was real square footage and they were concerned about that.

Mr. Simonsen suggested that the Planning Commission should recognize a policy change that he felt would be made tonight. He stated that there had been concern about billboards in residential neighborhoods, in order to move the billboards out of those areas, there would need to be some type of viable place to move them to. He stated that if all the "gateways" and main streets were taken away as locations to move them, there will be no incentive for the billboard companies to move them.

Dewey Reagan spoke in OPPOSITION of the Ordinance.

Mr. Reagan asked Mr. Dansie what would happen to the streets that were "special gateways" under the Ordinance.

Mr. Dansie stated that there were several streets designated as "special gateways", such as North Temple, 400 South, and State Street. He stated that they would be turned into "gateway streets".

Mr. Reagan said that before, they were able to move anywhere along the "gateway" streets, now they would no longer have that.

Mr. Dansie replied that it was true.

Mr. Reagan stated that the City was concerned about billboards blocking development, by purchasing property in the instances when they could not move.

Mr. Dansie replied that there was an option to move in previous circumstances, but the billboard company chose to purchase property.

Mr. Reagan stated that when they did move it was on "gateway streets" and that no property had been purchased on those streets.

Mr. Reagan stated that his company had bought property in the areas that they needed to have in order function as a business. This was done prior to digital being an option. Mr. Reagan stated that the buying of property began shortly after the Ordinance was passed in 1993. Therefore, the notion of banning digital advertising because it would be a further impediment to development did not make sense.

Mr. Reagan added that he felt that the subcommittee was making progress with regard to a meaningful discussion about situations where billboard companies would be willing to move signs. Mr. Reagan noted that that he believed that billboard companies might be open to discussion on that matter, but he felt that the trade off should be a location where there was greater demand for the product.

Chairperson Fife asked about relocation and should they follow the principles, etc., unless otherwise negotiated with the Mayor or designee. Did that provide the billboard

companies an out to move their signs to a place where it could be justified in a business way.

Mr. Reagan stated that he was not certain.

Commissioner Woodhead inquired about an alternative that could be provided from the billboard company that was not just that the billboard companies have property rights, but as a solution that might recognize the City's interests even if they were not shared.

Mr. Reagan stated that they had hoped to present their ideas in the subcommittee meeting that had been cancelled. He stated that they would use Salt Lake County as a model as a starting point for dialogue.

Commissioner Woodhead asked if the discussion was carried over to the next Planning Commission meeting, could something be put together in writing to be looked at.

Mr. Reagan agreed that they could.

Commissioner Dean added that due to the time constraints attached to the petition, the decision needed to be made by the next meeting in order to forward it to City Council.

Mr. Reagan stated the there was a difference between the billboard Ordinance and the digital sign Ordinance, and as an industry, they were not excited about the idea of a ban on electronic signs for any period of time. Hypothetically speaking, as a Planning Commissioner, he stated that he would be concerned about the lack of knowledge of the new technology.

Mr. Reagan added that the billboard ordinance was drafted in 1993 where the number of billboards allowed in Salt Lake City was capped. He asked why there was a rush to have this done. He asked why this issue started out as two petitions but ended as one draft.

Mr. Reagan said that he was not in favor of a ban; he did not think it would accomplish what the Mayor had in mind. If the City had been concerned, an option the Planning Commission could utilize could have been to forward a recommendation of a ban on the digital issue to the City Council and continue to work on the billboard ordinance.

7:36:40

Close of Public Hearing

Community Economic Director (CED) Frank Gray, representing the Mayor as applicant, spoke.

He stated that he wanted to make clear what the Mayor's position was. The purpose of the Ordinance was to clean up the gateways of our city so we are proud when people drive into our community. There were certain rights that we believed should be adhered to, billboards that were there should be able to remain there ad-in-finitum. If they were to be moved, the City wishes the right to purchase them, or they moved off the gateway.

Mr. Gray added that the City wants to enhance the gateways to our community. There was a connection between the two petitions, although one could be dealt with independently of the other. Mr. Gray said that there was a connection in the fact that we were dealing with billboards as a whole, as one subject. We felt it was better for the Commission to look at one subject, although there were two independent matters within it at one time.

Mr. Gray noted that it was the Planning Commissions' choice if they wanted to break it into parts, but he felt that the digital billboard topic was paramount.

Mr. Gray said that he did not think the entrances to our City should be a. have any more billboards than it has now, and b. should definitely have electronic billboards that change text or copy at a frequency that they do today.

7:39:46

Questions from the Commissioners

Chairperson Fife asked about the billboard bank, and what happens to the deposits.

Mr. Dansie replied that he believed that Reagan Signs had a few hundred square feet but no one else had any balance in the bank. He added that Salt Lake Community College had one billboard and they were not sure what they wanted to do with it.

Chairperson Fife asked if there was a time limit.

Mr. Dansie stated that the bank had been eliminated.

Mr. Gray added that with the bank closing, the City would pay back the deposits.

Mr. Gray answered the question of why the City should have regulations regarding digital billboards when we were trying to eliminate them. Mr. Gray said that there did exist digital billboards and those existing billboards need regulation. The new billboards would be banned under the proposal. The rules would regard luminosity and regarding frequency of the change of text on digital billboards that would make them more acceptable for the community.

Chairperson Fife said that there was a question about lighting in certain zone that the signs could not be lit between midnight and six a.m. He asked if that was a change.

Mr. Dansie responded that it was in the first draft that they received last December, and that it was indeed a change in the original draft.

Chairperson Fife asked if it had checked if it conformed to State statute.

Mr. Dansie said that it had been, but the State statute says if there was a billboard, the company gets to move it to a non-residential zone with a certain amount of feet, or as negotiated by the City, or the City has to buy it out.

Mr. Dansie added that a reason that the City dropped special gateways was because State Law allows them to move within a certain number of feet anyhow, and they wanted to eliminate redundancy.

After speaking with the Attorney's Mr. Dansie concluded that if it left the option of "or as negotiated with the City," a priority system was left in that the City could guide its own negotiations.

Chairperson Fife asked if there was a way to excise the electronic billboard portion of the petition and vote.

Planning Director Sommerkorn responded that he felt that the petition from the Mayor only dealt with the electronic billboards and that was the issue that had the time constraint. The other portion was not critical.

Mr. Dansie stated that he did not have a sample ordinance ready, but if the Planning Commission wanted to make a vote based on the findings of fact and direct the attorneys to draft an ordinance that would prohibit electronic billboards.

Land Use Attorney Paul Neilson added that it should include the relevant definitions.

Commissioner Woodhead added that she would like the difference between "luminance", and "illumiance".

The Commissioners along with CED Director Frank Gray and Planning Director Wilf Sommerkorn discussed the possibilities of voting on the issue at the current meeting.

Commissioner Dean suggested that she would prefer to vote at the next meeting.

Mr. Dansie clarified that the Planning Commission wanted to have two separate ordinances.

The Commission agreed.

Commissioner Gallegos asked about the term "takings" used in prior discussions

CED Director Gray answered that he believed that was in regard to a part of the discussion where a billboard company speculated on land and bought the property, and now should have the right to make the speculation come true. Mr. Gray stated that the City does not believe that was an endemic right, and the right of speculation was not in the Constitution.

Commissioner Woodhead added that the right to light existing billboards at night was an issue.

CED Director Gray stated that the City believes that the ordinance that has been written does not cross over into any "takings" area. From an energy conservation standpoint, and from a conservation and livability standpoint, the basis of all Zoning was light, air, and privacy, two of those criteria were violated and therefore, the Ordinance is on firm ground

Commissioner Woodhead asked about the Ordinance itself and the "dwell" time on the electronic billboards.

CED Director Gray compared the eight second dwell time to Las Vegas. He clarified that the billboard companies should be able to sell to many advertisers, but the flashing and causing people to look every 8, 10, 12 seconds would then become a moving sign, Whereas the ability to change copy remotely once a day would be acceptable.

Commissioner Gallegos asked if that meant even if Federal highways and administrations would be okay with the eight second change.

CED Director Gray said that we were talking about the appearance we want our community to have, not what the Federal Highway Commission thought was good.

Mr. Dansie said that the FHA rules were a minimum, the Federal Government allowed billboards, but it was up to the cities and states to regulate or prohibit them.

7:51:21

Motion

Commissioner Dean made the motion in regard to **PLNPCM2010-00717: Zoning Text Amendment, Electronic Billboards** I move that we that the Planning Commission keeps the public hearing closed, yet continue the decision until the next meeting of March 9, 2011 pending clarification and separation of that from the overall billboard ordinance.

Commissioner Drown seconded the motion

Vote: Commissioners Drown, Dean, De Lay, Gallegos and Woodhead all voted "aye", Commissioner Luke abstained. The motion passed.

7:52:42

Commissioner Dean made the motion in regard to **Petition 400-06-51: Zoning Text Amendment, Transit Shelter Advertising** and **PLNPCM2010-00032: Zoning Text Amendment, Billboards** that they are continued and continue the subcommittee to delve further not necessarily for the next meeting, but until we have that resolved in the future.

Commissioner Gallegos seconded the motion

Vote: Commissioners Drown, Dean, De Lay, Gallegos and Woodhead all voted "aye", Commissioner Luke abstained. The motion passed.

7:53:40

Meeting adjourned

This document, along with the digital recording, constitute the official minutes of the Salt Lake City Planning Commission held on February 23, 2011.

Angela Hasenberg



Briefing for Planning Commission

Planning Division
Community & Economic Development Department

To: Planning Commission Members
From: Doug Dansie, Senior Planner
Date: December 2, 2010
Re: Billboard Ordinance: December 9th briefing on proposed code amendments regarding billboards and public transit (public amenity) advertising.

Petitions: 400-06-51, PLNPCM2010-00032, PLNPCM2010-00717

Background

There are presently three separate petitions regarding the regulation of off-premise advertising in Salt Lake City.

Petition 400-06-51: Zoning Text Amendment, Transit Shelter Advertising - A request for a zoning text amendment to address advertising on Bus Shelters. The text amendment would affect all zoning districts.

PLNPCM2010-00032: Zoning Text Amendment, Billboards - A request by Salt Lake City Mayor Becker for a zoning text amendment to address outdoor billboards. The proposed amendment would update current regulations for outdoor billboards to make them consistent with state law. The text amendment would affect all zoning districts.

PLNPCM2010-00717: Zoning Text Amendment, Electronic Billboards - A request by Salt Lake City Mayor Becker for a zoning text amendment to address electronic billboards. Currently, the City Zoning Ordinance does not address electronic billboards. The text amendment would affect all zoning districts.

An Open House introducing these petitions and potential regulations was held on November 18, 2010. There will be a briefing at the December 9, 2010 meeting in preparation for a more formal staff report and public hearing not yet scheduled.

Because of the complicated nature of these petitions, the Staff is requesting that the Planning Commission hold an extensive working session prior to a public hearing. A working session has been tentatively scheduled for January 12, 2011. A working subcommittee may also be advantageous.

Attached are two working drafts illustrating potential changes. These drafts are provided to begin the discussion only. No comments from other departments or the industry have yet been integrated into the discussion drafts. The Planning Commission will be expected to address major policy issues prior to finalizing a draft.

Young Electric Sign Company has offered to provide a seminar regarding the technical details of electronic signage. They have invited staff and Planning Commission members to view their presentation; as early as December, in order to provide background for the proposed January working session.. Any Planning Commissioner who is interested in attending should let staff know.

Issues

Petition 400-06-51: Zoning Text Amendment, Transit Shelter Advertising - A request for a zoning text amendment to address advertising on Bus Shelters.

Issues:

- This is a potential method of paying for public amenities.
- Other communities along the Wasatch Front are presently using advertising as a method of paying for transit shelters. Advertising has been used to pay for other public amenities such as public toilettes or kiosks for news racks etc.

Questions:

- How much advertising in the public way is appropriate? How much advertising creates clutter?
- Should it be limited to transit shelter advertising or are other forms acceptable?
- Is this unfair competition?

PLNPCM2010-00032: Zoning Text Amendment, Billboards - A request by Salt Lake City Mayor Becker for a zoning text amendment to address outdoor billboards. The proposed amendment would update current regulations for outdoor billboards to make them consistent with state law.

Issues:

- The original billboard bank was instigated in 1993. Changes in State Law have made the Salt Lake billboard bank ineffective.
- Billboards impact City revenues and have a negative effect on development (they are taxed as personal property, providing minimal tax generation after 16 years – yet they often occupy high-profile locations, effectively preventing higher tax generating development).

Questions:

- What relocation is acceptable?
- Are there methods of decreasing billboard impacts?
- Are there methods of reducing the negative tax impact on the community?
- Are there methods of reducing visual or physical impacts on the city?
- Are there more appropriate methods of spacing billboards (i.e. concentration-similar to Time Square vs. dispersal-spaced every 500 feet).

PLNPCM2010-00717: Zoning Text Amendment, Electronic Billboards - A request by Salt Lake City Mayor Becker for a zoning text amendment to address electronic billboards. Currently, the City Zoning Ordinance does not address electronic billboards.

Issues:

- The Federal Government has not completed studies regarding highway safety.
- Electronic billboards are undefined by City Ordinances.

Questions:

- Are electronic billboards appropriate in the city? If so, where?
- Can conversion be used to reduce overall numbers of billboards?
- Can billboards effectively be integrated into building architecture (rather than free standing signs)?
- What are the traffic impacts?
- What are the impacts on adjacent landowners?
- What are appropriate levels of illumination and timing?

Discussion Draft

Proposal which allows transit advertising, eliminates billboard bank, defines electronic billboards and allows limited conversion to electronic billboards when accompanied by a reduction in overall number of billboards.

21A.46.058 TRANSIT SHELTER AND PUBLIC AMENITY ADVERTISING

Transit shelter and public amenity advertising shall be allowed only as part of a shelter at a bus stop or public transit stop or station, or a public amenity, pursuant to an approved and executed agreement between the City and a provider of transit shelters or public amenities, which sets forth the regulation of size, content, placement, design and materials used in the construction of said advertising and shelters and public amenity.

For purposes of this section, "public amenity" means an item generally located in the public way to provide a public service, which may include, but is not limited to, a kiosk displaying way finding signage or accommodating news racks or other public information, public restrooms, public furniture such as benches or trash receptacles or public services such as bike sharing. The common element is that they are offered for public consumption and provided as contract services to the City.

Transit shelter and public amenity advertising shall in no case be larger than 48" by 72" and shall be limited to no more than three panels per shelter or kiosk, unless otherwise restricted further by contract.

Transit shelter and public amenity advertising is only authorized when located adjacent to non-residential, RB, RMU, or RO zoning districts.

Transit shelter and public amenity advertising display may not contain nudity, pornography, or indecent or vulgar pictures, graphics or language or advertising of illegal products.

21A.46.060: SIGNS SPECIFICALLY PROHIBITED IN ALL ZONING DISTRICTS:

The following exterior signs, in addition to all other signs not expressly permitted by this chapter, are prohibited in all zoning districts and shall not be erected:

- A. Animated signs excluding public service signs;
- B. Any snipe sign;
- C. Balloons;
- D. Bench signs; except transit shelter and public amenity advertising specifically authorized by section 21A.46.58
- E. Portable signs, except where specifically permitted by district sign regulations;
- F. Signs overhanging the property line other than signs that are permitted under the sign regulations applicable to each zoning district;
- G. Signs which are structurally unsafe, hazardous or violate the uniform building code or the uniform fire code;
- H. Signs located near streets which imitate or are easily confused with official traffic signs and use words such as "stop", "look", "danger", "go slow", "caution" or "warning", except where such words are part of the name of a business or are accessory to parking lots; and
- I. Painted signs which do not meet the definition of wall signs. (Ord. 53-00 § 3, 2000; Ord. 88-95 § 1 (Exh. A), 1995)

21A.46.160: BILLBOARDS:

- A. Purpose Statement: This chapter is intended to limit the maximum number of billboards in Salt Lake City to no greater than the current number. This chapter further provides reasonable processes and methods for the replacement or relocation of existing nonconforming billboards to areas of the city where they will have less negative impact on the goals and policies of the city which promote the enhancement of the city's gateways, views, vistas and related urban design elements of the city's master plans.

B. Definitions:

BILLBOARD: A freestanding ground sign located on industrial, commercial or residential property if the sign is designed or intended to direct attention to a business, product or service that is not sold, offered or existing on the property where the sign is located. A billboard does not include transit shelter and public amenity advertising specifically authorized by Section 21A.46.058

BILLBOARD BANK: ~~An accounting system established by the city to keep track of the number and square footage of nonconforming billboards removed pursuant to this chapter.~~

BILLBOARD CREDIT: ~~An entry into a billboard owner's billboard bank account that shows the number and square footage of demolished nonconforming billboards.~~

BILLBOARD OWNER: The owner of a billboard in Salt Lake City.

DWELL TIME The length of time that elapses between text, images, or graphics on an electronic sign.

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EXISTING BILLBOARD: A billboard which was constructed, maintained and in use or for which a permit for construction was issued as of July 13, 1993.

ELECTRONIC BILLBOARD: Any off-premise sign, video display, projected image, or similar device with text, images, or graphics generated by solid state electronic components. Electronic signs include, but are not limited to, signs that use light emitting diodes (LED), plasma displays, fiber optics, or other technology that results in bright, high-resolution text, images, and graphics.

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GATEWAY: The following streets or highways within Salt Lake City:

1. Interstate 80;
2. Interstate 215;
3. Interstate 15;
4. 4000 West;
5. 5600 West;

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6. 2100 South Street from Interstate 15 to 1300 East;
7. The 2100 South Expressway from I-15 west to the city limit;
8. Foothill Drive from Guardsman Way to Interstate 80;
9. 400 South from Interstate 15 to 800 East;
10. 500 South from Interstate 15 to 700 East;
11. 600 South from Interstate 15 to 700 East;
12. 300 West from 900 North to 900 South;
13. North Temple from Main Street to Interstate 80;
14. Main Street from North Temple to 2100 South Street;
15. State Street from South Temple to 2100 South; and
16. 600 North from 800 West to 300 West.

NEW BILLBOARD: A billboard for which a permit to construct is issued after December 31, 1993.

NONCONFORMING BILLBOARD: An existing billboard which is located in a zoning district or otherwise situated in a way which would not be permitted by the provisions of this chapter.

SPECIAL GATEWAY: The following streets or highways within Salt Lake City:

1. North Temple between 600 West and 2200 West;
2. 400 South between 200 East and 800 East;
3. State Street between 600 South and 2100 South; and
4. Main Street between 600 South and 2100 South.

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LUMINANCE The photometric quantity most closely associated with the perception of brightness. Luminance is measured in candelas per square meters or "nits" for purposes of this ordinance.

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MOTION, The depiction of movement or change of position of text, images, or graphics. Motion shall include, but not be limited to, visual effects such as dissolving and fading text and images, running sequential text, graphic bursts, lighting that

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resembles zooming, twinkling, or sparkling, changes in light or color, transitory bursts of light intensity, moving patterns or bands of light, expanding or contracting shapes, and similar actions.

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NITS A unit of measure of brightness or luminance. One nit is equal to one candela/square meter.

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TEMPORARY EMBELLISHMENT: An extension of the billboard resulting in increased square footage as part of an artistic design to convey a specific message or advertisement.

TWIRL TIME The time it takes for static text, images, and graphics on an electronic sign to change to a different text, images, or graphics on a subsequent sign face.

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C. Limit On The Total Number Of Billboards: No greater number of billboards shall be allowed in Salt Lake City than the number of existing billboards. Billboards Prohibited: New Billboards are prohibited in Salt Lake City.

D. Relocation of Billboards: Existing billboards may be relocated as mandated by the requirements of Utah state law. Additionally, billboards may be relocated from any zoning district to Manufacturing, Extractive Industry and CG General Commercial zoning districts with the restriction that they are not oriented towards, or located within 600 feet of a gateway or special gateway street or residential zoning district. Voluntary relocation shall follow the priority outlined in subsection 21A.46.160.F of this ordinance, unless otherwise negotiated with the City.

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DE. Permit Required For Removal Of Nonconforming Billboards:

1. Permit: Nonconforming billboards may be removed by the billboard owner only after obtaining a permit for the demolition of the nonconforming billboard.

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2. Application: Application for demolition shall be on a form provided by the zoning administrator.

3. Fee: The fee for demolishing a nonconforming billboard shall be one hundred eleven dollars (\$111.00).

E. Credits For Nonconforming Billboard Removal: After a nonconforming billboard is demolished pursuant to a permit issued under subsection D1 of this section, or its successor, the city shall create a billboard bank account for the billboard owner. The account shall show the date of the removal and the zoning district of the demolished

nonconforming billboard. The account shall reflect billboard credits for the billboard and its square footage. Demolition of a conforming billboard shall not result in any billboard credit.

F. Priority For Removal Of Nonconforming Billboards: Nonconforming billboards shall be removed subject to the following priority schedule:

1. Billboards in districts zoned residential, historic, residential R-MU or downtown D-1, D-3 and D-4 shall be removed first;
2. Billboards in districts zoned commercial CN or CB, or any gateway zoning district G-MU, GGC or GH or on gateway streets shall be removed second;
3. Billboards which are nonconforming for any other reason shall be removed last; and
4. A billboard owner may demolish nonconforming billboards of a lower priority before removing billboards in a higher priority; however, the billboard credits for removing the lower priority billboard shall not become effective for use in constructing a new billboard until two (2) billboards specified in subsection F1 of this section, or its successor, with a total square footage equal to or greater than the lower priority billboard, are credited in the billboard owner's billboard bank account. If a billboard owner has no subsection F1 of this section, or its successor, nonconforming billboards, two (2) subsection F2 of this section, or its successor, priority billboards may be credited in the billboard owner's billboard bank account to effectuate the billboard credits of a subsection F3 of this section, or its successor, billboard to allow the construction of a new billboard. For the purposes of this section, the two (2) higher priority billboards credited in the billboard bank account can be used only once to effectuate the billboard credits for a lower priority billboard.

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G. Life Of Billboard Credits: Any billboard credits not used within thirty six (36) months of their creation shall expire and be of no further value or use except that lower priority credits effectuated pursuant to subsection F4 of this section, or its successor, shall expire and be of no further value or use within sixty (60) months of their initial creation.

H. Billboard Credits Transferable: A billboard owner may sell or otherwise transfer a billboard and/or billboard credits. Transferred billboard credits which are not effective because of the priority provisions of subsection F of this section, or its successor,

shall not become effective for their new owner until they would have become effective for the original owner. The transfer of any billboard credits do not extend their thirty six (36) month life provided in subsection G of this section, or its successor.

H.G. Double Faced Billboards: Demolition of a nonconforming billboard that has two (2) advertising faces shall receive billboard credits for the square footage on each face, but only as one billboard.

H.H. New Billboard Construction: It is unlawful to construct a new billboard other than pursuant to the terms of this chapter. In the event of a conflict between this chapter and any other provision in this code, the provisions of this chapter shall prevail.

H.I. Permitted Zoning Districts: ~~New-Relocated~~ billboards may be constructed only in the area identified on the official billboard map, Manufacturing, Extractive Industry and CG General Commercial zoning districts with the restriction that they are not oriented towards, or located within 600 feet of a gateway or special gateway street or residential zoning district.

H.J. New-Billboard relocation or remodeling Permits:

1. Application: Anyone desiring to construct a new billboard shall file an application on a form provided by the zoning administrator.

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2. Fees: The fees for a new billboard construction permit shall be:

a. Building permit and plan review fees required by the uniform building code as adopted by the city; and

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b. Inspection tag fees according to the fee schedule or its successor.

H.M. Use Of Billboard Credits:

1. A new billboard permit shall only be issued if the applicant has billboard credits of a sufficient number of square feet and billboards to allow construction of the new billboard.

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2. When the permit for the construction of a new billboard is issued, the zoning administrator shall deduct from the billboard owner's billboard bank account:

- a. The square footage of the new billboard; and
- b. The number of billboards whose square footage was used to allow the new billboard construction.

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3. If the new billboard uses less than the entire available billboard credits considering both the number of billboards and square footage, any remaining square footage shall remain in the billboard bank.

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NK. New-Billboards Prohibited On Gateways: Except as provided in subsection Q-D of this section, or its successor, no new billboard may be constructed within six hundred feet (600') of the right of way of any gateway street.

QI. Special Gateway Provisions:

- 1. If a nonconforming billboard is demolished within a special gateway, the billboard owner may construct a new billboard along the same special gateway in a zoning district equal to or less restrictive than that from which the nonconforming billboard was removed and subject to other subsections P, Q, R and S of this section, provided that the size of the new billboard does not exceed the amount of billboard credits in the special gateway billboard bank size of the billboard being relocated. Billboards may not be relocated from other areas onto a special gateway
- 2. The demolition of a nonconforming billboard pursuant to this section shall not accrue billboard credits within the general billboard bank. Credits for a billboard demolished or constructed within a special gateway shall be tracked within a separate bank account for each special gateway. A permit for the construction of a new billboard pursuant to this section must be taken out within thirty six (36) months of the demolition of the nonconforming billboard.

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PM. Maximum Size: The maximum size of the advertising area of any new billboard shall not exceed fifteen feet (15') in height and fifty feet (50') in width.

QN. Temporary Embellishments:

- ~~1. Temporary embellishments shall not exceed ten percent (10%) of the advertising face of any billboard, and shall not exceed five feet (5') in height above the billboard structure.~~
- ~~2. No temporary embellishment shall be maintained on a billboard more than twelve (12) months.~~

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Temporary Embellishments are prohibited

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RQ. Height: The highest point of any new billboard, ~~billboard~~ excluding temporary embellishments shall not be more than:

- ~~4. Forty five feet (45') above the existing grade; or the maximum height for a pole sign in the applicable zoning district, whichever is less. Unless otherwise authorized by State law.~~
- ~~2. If a street within one hundred feet (100') of the billboard, measured from the street at the point at which the billboard is perpendicular to the street, is on a different grade than the new billboard, twenty five feet (25') above the pavement elevation of the street.~~
- ~~3. If the provisions of subsection R2 of this section, or its successor subsection, apply to more than one street, the new billboard may be the higher of the two (2) heights.~~

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SP. Minimum Setback Requirements: All freestanding billboards shall be subject to pole sign setback requirements listed for the district in which the billboard is located. In the absence of setback standards for a particular district, freestanding billboards shall maintain a setback of not less than five feet (5') from the front or corner side lot line. This setback requirement shall be applied to all parts of the billboard, not just the sign support structure.

TQ. Spacing:

- ~~1. Small Signs: Billboards with an advertising face three hundred (300) square feet or less in size shall not be located closer than three hundred (300) linear feet from any other small billboard or eight hundred feet (800') from a large billboard on the same side of the street;~~

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2. Large Signs: Billboards with an advertising face greater than three hundred (300) square feet in size shall not be located closer than eight hundred (800) linear feet from any other billboard, small or large, on the same side of the street.

3. Spacing for electronic billboards fully integrated into the architecture of a building and not free standing, may be modified by the Planning Commission as a Conditional Building and Site Design Review as outlined in section 21A.59, as long as such modifications are consistent with State Law

R Lighting: Nighttime illumination of billboards may not glare directly onto the roadway or sidewalk nor across property lines. Billboards located within Residential, Mixed-Use, CN or CB zoning districts may not be illuminated or lit between the hours of midnight and 6 am.

S: Electronic Billboards:

1. Electronic Billboard are prohibited except when converting an existing billboard to electronic as follows:

a) A Billboard may be converted to an electronic billboard in Manufacturing, Extractive Industry and CG General Commercial zoning districts with the restriction that they are not oriented towards, or located within 600 feet of a gateway or special gateway street or residential zoning district. Provided that four times the non-electronic square footage of the new electronic billboard is removed elsewhere in the City.

b) Billboards may be converted to electronic billboards on Gateway streets, provided that five times the non-electronic square footage of the new electronic billboard is removed along the same Gateway, or removed from another gateway only if sufficient square footage is not available on the host gateway.

c) Billboards may be converted to electronic billboards in Special Gateways provided that four times the non-electronic square footage of the new electronic billboard is removed on the same Special Gateway or removed from another special gateway only if sufficient square footage is not available on the host special gateway and the new electronic billboard is fully integrated into the architecture of a building and is not free standing.

d) Billboards may be converted to electronic billboards in Downtown or Sugar House Business District zoning districts provided that five times the non-electronic square footage of the new electronic billboard is removed in any Downtown, Sugar House Business District, residential, neighborhood commercial, Community Business, Community Shopping Center, gateway, or

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mixed-use zoning district and the new electronic billboard is fully integrated into the architecture of a building and is not free standing.

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2. Motion

Any motion of any kind is prohibited on an electronic sign face. Electronic billboards shall have only static text, images, and graphics.

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3. Dwell time

The text, image, or display on an electronic sign may not change more than once every sixty (60) seconds. Twirl time between subsequent text, images, or display shall not exceed 0.25 seconds.

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4. Brightness

During daylight hours between sunrise and sunset, luminance shall be no greater than 2,500 nits. At all other times, luminance shall be no greater than 500 nits.

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5. Size

The maximum size of an electronic sign shall be no larger than the billboard it replaced or shall not exceed fifteen feet (15') in height and fifty feet (50') in width, whichever is less.

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6. Display period

Electronic billboards may not be illuminated or lit between the hours of midnight and 6 a.m if they are located within 600 Feet of a residential, mixed-use, downtown, Sugar House Business District, gateway, Neighborhood Commercial, Community Business, or Community Shopping Center zoning district.

7. Controls

a. All electronic signs shall be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness and display period as provided above.

b. Prior to approval of any permit for to operate an electronic sign, the applicant shall certify that the sign has been tested and complies with the motion, dwell time, brightness, and other requirements herein.

c. The owner and/or operator of an electronic sign shall submit an annual report to the city certifying that the sign complies with the motion, dwell time, brightness, and other requirements herein.

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UJ. Landscaping In Residential And Commercial CN And CB Zoning Districts:
Properties in any residential zone and commercial CN or CB zones on which a billboard is the only structure shall be landscaped as required by sections 21A.26.020 and 21A.26.030 and chapter 21A.48 of this title, or its successor chapter. No portion of such property shall be hard or gravel surfaced.

~~VU.~~ Landscaping In Other Zoning Districts: Property in all districts other than as specified in subsection U of this section, or its successor subsection, upon which a billboard is the only structure, shall be landscaped from the front of the property to the deepest interior point of the billboard for fifty (50) linear feet along the street frontage distributed, to the maximum extent possible, evenly on each side of the billboard.

~~WV.~~ Xeriscape Alternative: If all the properties adjacent to and across any street from the property for which billboard landscaping is required pursuant to subsection V of this section, or its successor subsection, are not developed or, if a water line for irrigation does not exist on the property or in the street right of way adjacent to such property, the zoning administrator may authorize Xeriscaping as an alternative for the required landscaping.

~~XW.~~ Existing Billboard Landscaping: Existing billboards shall comply with the landscaping provisions of this section on or before January 1, 1996.

~~YX.~~ Compliance With Tree Stewardship Ordinance: Construction, demolition or maintenance of billboards shall comply with the provisions of the Salt Lake City tree stewardship ordinance and the Tree Protection ordinance.

~~ZY.~~ Subdivision Registration: To the extent that the lease or other acquisition of land for the site of a new billboard may be determined to be a subdivision pursuant to state statute no subdivision plat shall be required and the zoning administrator is authorized to approve, make minor subsequent amendments to, and record as necessary, such subdivision.

~~AA.~~ Special Provisions:

~~1.~~ Applicability: The provisions of this section shall apply to specified billboards located:

~~a.~~ Four (4) existing billboards between 1500 North and 1800 North adjacent to the west side of Interstate 15; and

~~b.~~ One existing billboard on the east side of Victory Road at approximately 1100 North.

- ~~2. General Applicability: Except as modified by this section, all other provisions of this chapter shall apply to the five (5) specified billboards.~~
 - ~~3. Special Priority: The five (5) specified billboards shall be considered as gateway billboards for the purposes of the priority provisions of subsection F of this section, or its successor subsection.~~
 - ~~4. Landscaping: The five (5) specified billboards shall be landscaped pursuant to the provisions of subsection V of this section, or its successor subsection.~~
- ~~BB. State Mandated Relocation Of Billboards: Except as otherwise authorized herein, existing billboards may not be relocated except as mandated by the requirements of Utah state law. (Ord. 72-08 § 2, 2008; Ord. 42-08 § 12, 2008; Ord. 13-04 §§ 25, 26, 27, 2004; Ord. 25-00 §§ 1-3, 2000; Ord. 83-98 §§ 12-14, 1998; Ord. 88-95 § 1 (Exh. A), 1995)~~

Discussion Draft

Proposal which allows transit advertising, eliminates billboard bank, defines electronic billboards and prohibits electronic billboards.

21A.46.058 TRANSIT SHELTER AND PUBLIC AMENITY ADVERTISING

Transit shelter and public amenity advertising shall be allowed only as part of a shelter at a bus stop or public transit stop or station, or a public amenity, pursuant to an approved and executed agreement between the City and a provider of transit shelters or public amenities, which sets forth the regulation of size, content, placement, design and materials used in the construction of said advertising and shelters and public amenity.

For purposes of this section, "public amenity" means an item generally located in the public way to provide a public service, which may include, but is not limited to, a kiosk displaying way finding signage or accommodating news racks or other public information, public restrooms, public furniture such as benches or trash receptacles or public services such as bike sharing. The common element is that they are offered for public consumption and provided as contract services to the City.

Transit shelter and public amenity advertising shall in no case be larger than 48" by 72" and shall be limited to no more than three panels per shelter or kiosk, unless otherwise restricted further by contract.

Transit shelter and public amenity advertising is only authorized when located adjacent to non-residential, RB, RMU, or RO zoning districts.

Transit shelter and public amenity advertising display may not contain nudity, pornography, or indecent or vulgar pictures, graphics or language or advertising of illegal products.

21A.46.060: SIGNS SPECIFICALLY PROHIBITED IN ALL ZONING DISTRICTS:

The following exterior signs, in addition to all other signs not expressly permitted by this chapter, are prohibited in all zoning districts and shall not be erected:

A. Animated signs excluding public service signs;

B. Any snipe sign;

C. Balloons;

D. Bench signs; except transit shelter and amenity advertising specifically authorized by section 21A.46.58

E. Portable signs, except where specifically permitted by district sign regulations;

F. Signs overhanging the property line other than signs that are permitted under the sign regulations applicable to each zoning district;

G. Signs which are structurally unsafe, hazardous or violate the uniform building code or the uniform fire code;

H. Signs located near streets which imitate or are easily confused with official traffic signs and use words such as "stop", "look", "danger", "go slow", "caution" or "warning", except where such words are part of the name of a business or are accessory to parking lots; and

I. Painted signs which do not meet the definition of wall signs. (Ord. 53-00 § 3, 2000; Ord. 88-95 § 1 (Exh. A), 1995)

21A.46.160: BILLBOARDS:

A. Purpose Statement: This chapter is intended to limit the maximum number of billboards in Salt Lake City to no greater than the current number. This chapter further provides reasonable processes and methods for the replacement or relocation of existing nonconforming billboards to areas of the city where they will have less negative impact on the goals and policies of the city which promote the enhancement of the city's gateways, views, vistas and related urban design elements of the city's master plans.

B. Definitions:

BILLBOARD: A freestanding ground sign located on industrial, commercial or residential property if the sign is designed or intended to direct attention to a business, product or service that is not sold, offered or existing on the property where the sign is located. A billboard does not include transit shelter and public amenity advertising specifically authorized by Section 21A.46.058

BILLBOARD BANK: An accounting system established by the city to keep track of the number and square footage of nonconforming billboards removed pursuant to this chapter.

BILLBOARD CREDIT: An entry into a billboard owner's billboard bank account that shows the number and square footage of demolished nonconforming billboards.

BILLBOARD OWNER: The owner of a billboard in Salt Lake City.

DWELL TIME The length of time that elapses between text, images, or graphics on an electronic sign.

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EXISTING BILLBOARD: A billboard which was constructed, maintained and in use or for which a permit for construction was issued as of July 13, 1993.

ELECTRONIC BILLBOARD: Any off-premise sign, video display, projected image, or similar device with text, images, or graphics generated by solid state electronic components. Electronic signs include, but are not limited to, signs that use light emitting diodes (LED), plasma displays, fiber optics, or other technology that results in bright, high-resolution text, images, and graphics.

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GATEWAY: The following streets or highways within Salt Lake City:

1. Interstate 80;
2. Interstate 215;
3. Interstate 15;
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5. 5600 West;

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6. 2100 South Street from Interstate 15 to 1300 East;
7. The 2100 South Expressway from I-15 west to the city limit;
8. Foothill Drive from Guardsman Way to Interstate 80;
9. 400 South from Interstate 15 to 800 East;
10. 500 South from Interstate 15 to 700 East;
11. 600 South from Interstate 15 to 700 East;
12. 300 West from 900 North to 900 South;
13. North Temple from Main Street to Interstate 80;
14. Main Street from North Temple to 2100 South Street;
15. State Street from South Temple to 2100 South; and
16. 600 North from 800 West to 300 West.

NEW BILLBOARD: A billboard for which a permit to construct is issued after December 31, 1993.

NONCONFORMING BILLBOARD: An existing billboard which is located in a zoning district or otherwise situated in a way which would not be permitted by the provisions of this chapter.

SPECIAL GATEWAY: The following streets or highways within Salt Lake City:

1. North Temple between 600 West and 2200 West;
2. 400 South between 200 East and 800 East;
3. State Street between 600 South and 2100 South; and
4. Main Street between 600 South and 2100 South.

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resembles zooming, twinkling, or sparkling, changes in light or color, transitory bursts of light intensity, moving patterns or bands of light, expanding or contracting shapes, and similar actions.

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NITS A unit of measure of brightness or luminance. One nit is equal to one candela/square meter.

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TWIRL TIME The time it takes for static text, images, and graphics on an electronic sign to change to a different text, images, or graphics on a subsequent sign face.

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C. Limit On The Total Number Of Billboards: No greater number of billboards shall be allowed in Salt Lake City than the number of existing billboards. Billboards Prohibited: New Billboards are prohibited in Salt Lake City.

D. Relocation of Billboards: Existing billboards may be relocated as mandated by the requirements of Utah state law. Additionally, billboards may be relocated from any zoning district to Manufacturing, Extractive Industry and CG General Commercial zoning districts with the restriction that they are not oriented towards, or located within 600 feet of a gateway or special gateway street or residential zoning district. Voluntary relocation shall follow the priority outlined in subsection 21A.46.160.F of this ordinance, unless otherwise negotiated with the City.

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1. Permit: Nonconforming billboards may be removed by the billboard owner only after obtaining a permit for the demolition of the nonconforming billboard.
2. Application: Application for demolition shall be on a form provided by the zoning administrator.
3. Fee: The fee for demolishing a nonconforming billboard shall be one hundred eleven dollars (\$111.00).

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E. Credits For Nonconforming Billboard Removal: After a nonconforming billboard is demolished pursuant to a permit issued under subsection D1 of this section, or its successor, the city shall create a billboard bank account for the billboard owner. The account shall show the date of the removal and the zoning district of the demolished

nonconforming billboard. The account shall reflect billboard credits for the billboard and its square footage. Demolition of a conforming billboard shall not result in any billboard credit.

F. Priority For Removal Of Nonconforming Billboards: Nonconforming billboards shall be removed subject to the following priority schedule:

1. Billboards in districts zoned residential, historic, residential R-MU or downtown D-1, D-3 and D-4 shall be removed first;
2. Billboards in districts zoned commercial CN or CB, or any gateway zoning district G-MU, GGC or GH or on gateway streets shall be removed second;
3. Billboards which are nonconforming for any other reason shall be removed last; and
4. A billboard owner may demolish nonconforming billboards of a lower priority before removing billboards in a higher priority; however, the billboard credits for removing the lower priority billboard shall not become effective for use in constructing a new billboard until two (2) billboards specified in subsection F1 of this section, or its successor, with a total square footage equal to or greater than the lower priority billboard, are credited in the billboard owner's billboard bank account. If a billboard owner has no subsection F1 of this section, or its successor, nonconforming billboards, two (2) subsection F2 of this section, or its successor, priority billboards may be credited in the billboard owner's billboard bank account to effectuate the billboard credits of a subsection F3 of this section, or its successor, billboard to allow the construction of a new billboard. For the purposes of this section, the two (2) higher priority billboards credited in the billboard bank account can be used only once to effectuate the billboard credits for a lower priority billboard.

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G. Life Of Billboard Credits: Any billboard credits not used within thirty six (36) months of their creation shall expire and be of no further value or use except that lower priority credits effectuated pursuant to subsection F4 of this section, or its successor, shall expire and be of no further value or use within sixty (60) months of their initial creation.

H. Billboard Credits Transferable: A billboard owner may sell or otherwise transfer a billboard and/or billboard credits. Transferred billboard credits which are not effective because of the priority provisions of subsection F of this section, or its successor,

shall not become effective for their new owner until they would have become effective for the original owner. The transfer of any billboard credits do not extend their thirty six (36) month life provided in subsection G of this section, or its successor.

I.G. Double Faced Billboards: Demolition of a nonconforming billboard that has two (2) advertising faces shall receive billboard credits for the square footage on each face, but only as one billboard.

J.H. New Billboard Construction: It is unlawful to construct a new billboard other than pursuant to the terms of this chapter. In the event of a conflict between this chapter and any other provision in this code, the provisions of this chapter shall prevail.

K.I. Permitted Zoning Districts: New-Relocated billboards may be constructed only in the area identified on the official billboard map: Manufacturing, Extractive Industry and CG General Commercial zoning districts with the restriction that they are not oriented towards, or located within 600 feet of a gateway or special gateway street or residential zoning district.

L.J. New Billboard relocation or remodeling Permits:

1. Application: Anyone desiring to construct a new billboard shall file an application on a form provided by the zoning administrator.

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2. Fees: The fees for a new billboard construction permit shall be:

a. Building permit and plan review fees required by the uniform building code as adopted by the city; and

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b. Inspection tag fees according to the fee schedule or its successor.

M. Use Of Billboard Credits:

1. A new billboard permit shall only be issued if the applicant has billboard credits of a sufficient number of square feet and billboards to allow construction of the new billboard.

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2. When the permit for the construction of a new billboard is issued, the zoning administrator shall deduct from the billboard owner's billboard bank account:

- a. The square footage of the new billboard; and
- b. The number of billboards whose square footage was used to allow the new billboard construction.

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3. If the new billboard uses less than the entire available billboard credits considering both the number of billboards and square footage, any remaining square footage shall remain in the billboard bank.

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NK. New-Billboards Prohibited On Gateways: Except as provided in subsection O-D of this section, or its successor, no new billboard may be constructed within six hundred feet (600') of the right of way of any gateway street.

OL. Special Gateway Provisions:

1. If a nonconforming billboard is demolished within a special gateway, the billboard owner may construct a new billboard along the same special gateway in a zoning district equal to or less restrictive than that from which the nonconforming billboard was removed and subject to other subsections P, Q, R and S of this section, provided that the size of the new billboard does not exceed the amount of billboard credits in the special gateway billboard bank size of the billboard being relocated. Billboards may not be relocated from other areas onto a special gateway.
2. The demolition of a nonconforming billboard pursuant to this section shall not accrue billboard credits within the general billboard bank. Credits for a billboard demolished or constructed within a special gateway shall be tracked within a separate bank account for each special gateway. A permit for the construction of a new billboard pursuant to this section must be taken out within thirty six (36) months of the demolition of the nonconforming billboard.

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PM. Maximum Size: The maximum size of the advertising area of any new billboard shall not exceed fifteen feet (15') in height and fifty feet (50') in width.

QN. Temporary Embellishments:

1. Temporary embellishments shall not exceed ten percent (10%) of the advertising face of any billboard, and shall not exceed five feet (5') in height above the billboard structure.

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2. No temporary embellishment shall be maintained on a billboard more than twelve (12) months.

Temporary Embellishments are prohibited

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RO. Height: The highest point of any new billboard, billboard excluding temporary embellishments shall not be more than:

1. Forty five feet (45') above the existing grade; or the maximum height for a pole sign in the applicable zoning district, whichever is less. Unless otherwise authorized by State law.

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2. If a street within one hundred feet (100') of the billboard, measured from the street at the point at which the billboard is perpendicular to the street, is on a different grade than the new billboard, twenty five feet (25') above the pavement elevation of the street.

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3. If the provisions of subsection R2 of this section, or its successor subsection, apply to more than one street, the new billboard may be the higher of the two (2) heights.

SP. Minimum Setback Requirements: All freestanding billboards shall be subject to pole sign setback requirements listed for the district in which the billboard is located. In the absence of setback standards for a particular district, freestanding billboards shall maintain a setback of not less than five feet (5') from the front or corner side lot line. This setback requirement shall be applied to all parts of the billboard, not just the sign support structure.

FQ. Spacing:

1. Small Signs: Billboards with an advertising face three hundred (300) square feet or less in size shall not be located closer than three hundred (300) linear feet from any other small billboard or eight hundred feet (800') from a large billboard on the same side of the street;

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2. Large Signs: Billboards with an advertising face greater than three hundred (300) square feet in size shall not be located closer than eight hundred (800) linear feet from any other billboard, small or large, on the same side of the street.

3. Spacing for billboards fully integrated into the architecture of a building and not free standing, may be modified by the Planning Commission as a Conditional Building and Site Design Review as outlined in section 21A.59, as long as such modifications are consistent with State Law

R Lighting: Nighttime illumination of billboards may not glare directly onto the roadway or sidewalk nor across property lines. Billboards located within Residential, Mixed-Use, CN or CB zoning districts may not be illuminated or lit between the hours of midnight and 6 am.

S: Electronic Billboards:

1. New Electronic Billboard are prohibited, Electronic billboard existing as of the date of adoption of this ordinance are limited to the following:

a. Motion

Any motion of any kind is prohibited on an electronic sign face. Electronic billboards shall have only static text, images, and graphics.

b. Dwell time

The text, image, or display on an electronic sign may not change more than once every sixty (60) seconds. Twirl time between subsequent text, images, or display shall not exceed 0.25 seconds.

c. Brightness

During daylight hours between sunrise and sunset, luminance shall be no greater than 2,500 nits. At all other times, luminance shall be no greater than 500 nits.

d. Size

The maximum size of an electronic sign shall be no larger than the billboard as it exists as of the date of the adoption of this ordinance.

e. Display period

Electronic billboards may not be illuminated or lit between the hours of midnight and 6 a.m if they are located within 600 Feet of a residential, mixed-use, downtown, Sugar House Business District, gateway, Neighborhood Commercial, Community Business, or Community Shopping Center zoning district.

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f. Controls

- i. All electronic signs shall be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness and display period as provided above.
- ii. Prior to approval of any permit for to operate an electronic sign, the applicant shall certify that the sign has been tested and complies with the motion, dwell time, brightness, and other requirements herein.
- iii. The owner and/or operator of an electronic sign shall submit an annual report to the city certifying that the sign complies with the motion, dwell time, brightness, and other requirements herein.

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UT. Landscaping In Residential And Commercial CN And CB Zoning Districts:

Properties in any residential zone and commercial CN or CB zones on which a billboard is the only structure shall be landscaped as required by sections 21A.26.020 and 21A.26.030 and chapter 21A.48 of this title, or its successor chapter. No portion of such property shall be hard or gravel surfaced.

VU. Landscaping In Other Zoning Districts: Property in all districts other than as specified in subsection U of this section, or its successor subsection, upon which a billboard is the only structure, shall be landscaped from the front of the property to the deepest interior point of the billboard for fifty (50) linear feet along the street frontage distributed, to the maximum extent possible, evenly on each side of the billboard.

WV. Xeriscape Alternative: If all the properties adjacent to and across any street from the property for which billboard landscaping is required pursuant to subsection V of this section, or its successor subsection, are not developed or, if a water line for irrigation does not exist on the property or in the street right of way adjacent to such property, the zoning administrator may authorize Xeriscaping as an alternative for the required landscaping.

XW. Existing Billboard Landscaping: Existing billboards shall comply with the landscaping provisions of this section on or before January 1, 1996.

~~YX.~~ Compliance With Tree Stewardship Ordinance: Construction, demolition or maintenance of billboards shall comply with the provisions of the Salt Lake City tree stewardship ordinance and the Tree Protection ordinance.

~~ZY.~~ Subdivision Registration: To the extent that the lease or other acquisition of land for the site of a new billboard may be determined to be a subdivision pursuant to state statute no subdivision plat shall be required and the zoning administrator is authorized to approve, make minor subsequent amendments to, and record as necessary, such subdivision.

~~AA. Special Provisions:~~

~~1. Applicability: The provisions of this section shall apply to specified billboards located:~~

~~a. Four (4) existing billboards between 1500 North and 1800 North adjacent to the west side of Interstate 15; and~~

~~b. One existing billboard on the east side of Victory Road at approximately 1100 North.~~

~~2. General Applicability: Except as modified by this section, all other provisions of this chapter shall apply to the five (5) specified billboards.~~

~~3. Special Priority: The five (5) specified billboards shall be considered as gateway billboards for the purposes of the priority provisions of subsection F of this section, or its successor subsection.~~

~~4. Landscaping: The five (5) specified billboards shall be landscaped pursuant to the provisions of subsection V of this section, or its successor subsection.~~

~~BB. State Mandated Relocation Of Billboards: Except as otherwise authorized herein, existing billboards may not be relocated except as mandated by the requirements of Utah state law. (Ord. 72-08 § 2, 2008; Ord. 42-08 § 12, 2008; Ord. 13-04 §§ 25, 26, 27, 2004; Ord. 25-00 §§ 1-3, 2000; Ord. 83-98 §§ 12-14, 1998; Ord. 88-95 § 1 (Exh. A), 1995)~~

Comments From Greg Simonsen regarding billboards

Comments Concerning Changes to Salt Lake City's Billboard Ordinance.

This is a comment concerning the proposed changes to Salt Lake City's billboard ordinances that were presented at the Open House on November 18, 2010.

A. Removal of the Time Bank would Constitute a Taking.

Billboard owners with points in the bank have constitutionally protected property rights. The economic value of these points is recognized in the current ordinance (See, 21A.46.060(H)).

In both drafts of proposed changes, Salt Lake City eliminates the time banking system. In particular, the provision that allows an entity to construct a new billboard when it has the credits (or points) to do so is eliminated. Taking this property without compensation constitutes a violation of substantive due process and procedural due process of law. This is a taking for which formal condemnation procedures must be instituted. These credits or points have already been obtained and the owners have relied on them when removing previous billboards.

The proposed changes also would eliminate the provision that gives a right to sell the billboard credits and any "economic rights" pertaining to it. Again, this constitutes a taking and is a violation of the Due Process Clause of the United States Constitution and Article 1 Section 22 of the Utah Constitution. Again, compensation must be paid for the economic rights that they have lost.

Even the current ordinance violates the law regarding billboards. The point system that calls for point expiration after 36 months is, in effect, an amortization of the billboards. This is in violation of Section 10-9a-511(2)(b) of the Utah Code which prohibits municipalities from terminating these nonconforming billboards or amortizing billboards. This Section of the code, which has constitutional takings underpinnings, is designed to prevent the takings the City has attempted under the current ordinance.

B. Proposed Limitations on Electronic Signs are Improper and Constitute Impermissible Regulation of Free Speech.

The proposed ordinance requires the elimination of as many as 5 traditional billboards to allow the erection of 1 electronic billboard. This provision has many problems including the fact that the only people that will be able to construct electronic billboards are those that own traditional billboards. This does not provide equal protection under the law.

Limitations on dwell time and the number of advertisers on an electronic sign violate the First Amendment in that they impose impermissible content restrictions on the sign. While the City is allowed some reasonable time and place restrictions when there is a rational basis for doing so, restricting number of messages on the board is an unreasonable content restriction and

violates principles of free speech. As noted below, all City ordinances in any way restricting speech must be “narrowly tailored” to meet legitimate City objectives. This ordinance does not pass muster.

C. Changes to Ordinances to Allow Advertising at Transit Shelters are Inconsistent with Ordinance’s Stated Purposes and violate the law.

At its heart the proposed new ordinance is a revenue ordinance. The City desires to raise money through advertising. It is true that much of this revenue will go toward the construction and maintenance of transit shelters, a legitimate governmental function. However, the bottom line is that the City is seeking to raise revenue by legalizing expansion of off premise advertising in the City, so long as only the City is permitted to participate in the revenues derived from the regulation change. This certainly makes it appear that the City desires to suppress the activities of its advertising competitors, while lifting restrictions that will only benefit the City.

The current Salt Lake City Billboard Ordinance was enacted “to limit the maximum number of billboards in Salt Lake City to the current number.” (Section 21A.46.160) If enacted, the new ordinance is nothing more than a decision to now after many years of restricting the total number of billboards to the current number, increase the number of billboards allowed so that the City and its one chosen contractors can actively and on unequal terms compete for advertising revenues. The City proposes to do this at a time that is also proposes reduction of competing billboards.

In stating its rationale for the current billboard law, which limits billboards to its current number, the City has said it wants to relocate existing billboards and limit construction of new billboards to have “less negative impact on the goals and policies of the City which promote the enhancement of the City’s gateways, views, vistas and related urban design elements of the City’s master plan.” (21A.46.150.1). Similarly, the purposes of the sign ordinance are stated in Section 21A.46.010 and include the following statements:

3. Encourage sign legibility through the elimination of excessive and confusing sign displays;
4. Preserve and improve the appearance of the city as a place in which to live and to work, and create an attraction to nonresidents to come to visit or trade;
6. Safeguard and enhance property values;
7. Protect public and private investments in buildings and open space.

We cannot think of any rational distinction as to why a ban on new billboards, or a restriction on electronic billboards somehow promotes these values, whereas now changing the definition of billboard to allow transit advertising somehow also promotes such values. Clearly the City has long thought that transit advertising would diminish such values or else it would not

have written the definition of billboard as it did. Only now that the City has determined that it, instead of someone else, may earn the advertising revenues, does the City decide to no longer cling so tightly to its stated purposes.

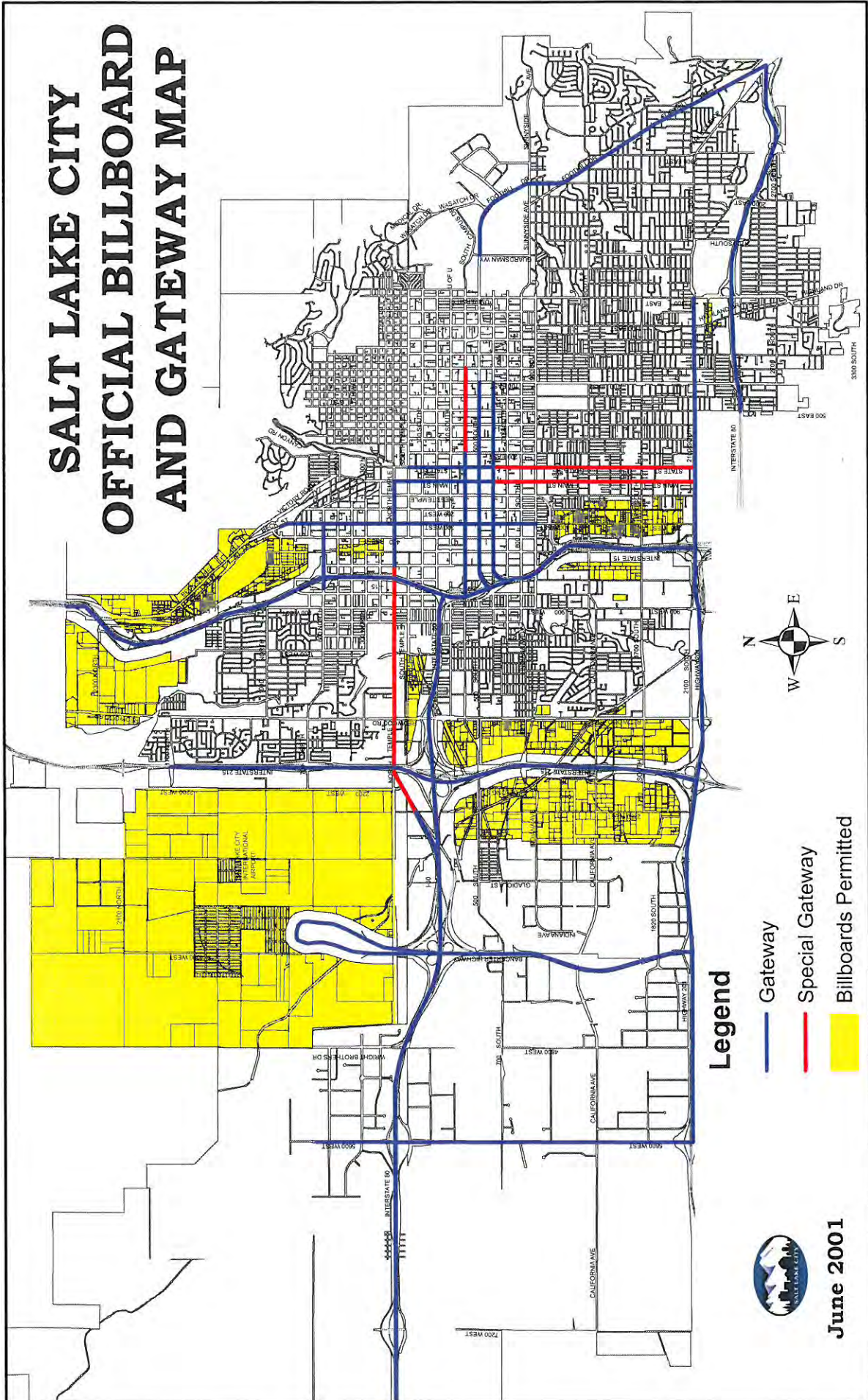
The City's apparent willingness to increase the number of billboards allowed in the City calls into question the overall limitation on billboards in the City and whether the City has acted rationally and legitimately in placing such a limit. If the City proceeds to enact the proposed legislation the City will face challenges to the overall limit on billboards in the City.

Finally, we wish to remind the City that regulations on billboards must be "narrowly tailored" to serve as a significant governmental interest. *City of Ladue v. Gilleo*, 512 U.S. 43, 48 (1994). "Billboards and other visual signs, is it clear, represent a medium of expression that the Free Speech Clause has long protected." *Prime Media, Inc. v. City of Brentwood*, 398 F.3d 814 (6th Cir. 2005). Enactment of the proposed ordinance would seriously call into question the entire Salt Lake City regulatory scheme and whether it is "narrowly tailored" to achieve its goals and purposes. If the City can so cavalierly cast aside such long standing provisions as it now proposes to do, without compromising its goals and objectives, it is likely that there are other significant areas of regulation, including the complete restriction on additional signs, that will not survive court scrutiny.




EXHIBIT E

EXHIBIT E

SALT LAKE CITY OFFICIAL BILLBOARD AND GATEWAY MAP



Legend

-  Gateway
-  Special Gateway
-  Billboards Permitted



June 2001

EXHIBIT F

EXHIBIT F



View Chosen Topic & Notes

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Project: BLD2018-01367 Owner: Building Services Project Coordinator	Category	Author	Date Updated
Cycle 3 Zoning Review	Notice	Ken Brown	3/8/2018 10:23:25 AM

The Cycle 3 Zoning Review has been completed and all zoning issues have been resolved. Thank you for your efforts in providing a stamped, signed and dated Sit Plan. Provision of this type of site plan for all future proposal should cause the review process to go much smoother. Have a great day.

No notes have been created yet.

ATTACHMENT B: ADMINISTRATIVE DECISION LETTER



April 6, 2018

VIA Mail and Email to: guy@reaganusa.com

Reagan Outdoor Advertising
1775 North Warm Springs Road
Salt Lake City, Utah 84116
Attn: Guy Larson

Re: BLD2018-01367: Application to Construct a Billboard at 775 East 400 South

Dear Mr. Larson:

On February 7, 2018, Salt Lake City Corporation received Reagan Outdoor Advertising's application for a permit to construct a new billboard at 775 East 400 South (BLD2018-01367). The application proposes using billboard credits Reagan banked in the 400 South special gateway billboard bank from the demolition of a billboard that was located on the northwest corner of 400 South and 200 East in the parking lot at the Dunkin Donuts ("**Dunkin Donuts Sign**"). Accordingly, the provisions of the Salt Lake City Code that regulate the use of special gateway billboard credits apply.

Salt Lake City Code allows use of special gateway billboard credits to construct a new billboard in the same special gateway if the new billboard is "in a zoning district equal to or less restrictive than that from which the nonconforming billboard was removed." Salt Lake City Code § 21A.46.160(O)(1). The credits in Reagan's 400 South special gateway account are from demolition of the Dunkin Donuts Sign, which was located in the D-1 zone. Reagan proposes constructing a new billboard at 775 East 400 South, which is zoned TSA-UN-T. A TSA-UN-T zoning district is more restrictive than the D-1 zone. Accordingly, the new construction is not permitted by Salt Lake City Code and the billboard construction application BLD2018-01367 is denied.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joel Paterson".

Joel Paterson, AICP
Zoning Administrator

ATTACHMENT C: SLC ATTORNEY'S RESPONSE TO APPEAL CLAIMS

ADMINISTRATIVE HEARING OF A LAND USE APPEAL
(Case Nos. PLNAPP2018-00278, Appealing **BLD2018-01367**)
(September 6, 2018)

Appellant:	Reagan Outdoor Advertising
Decision-making entity:	Zoning Administrator
Addresses Related to Appeal:	200 East 400 South 775 East 400 South
Request:	Appealing the City’s denial of application to use banked billboard credits.
Brief Prepared by:	Samantha Slark, Senior City Attorney Katherine N. Lewis, Senior City Attorney

On April 6, 2018, Salt Lake City Corporation (the “City”) denied Reagan Outdoor Advertising’s (“Reagan”) application to use banked billboard credits to build a billboard at 775 East 400 South (BLD2018-01367) (“775 East Sign”). On April 20, 2018, Reagan appealed.

BACKGROUND

On or around October 15, 2015, Reagan demolished a billboard located at 400 South and 200 East (“Dunkin Donuts Sign”). Reagan demolished the Dunkin Donuts Sign because the owner of the underlying property terminated Reagan’s lease and required Reagan to remove the sign. The Dunkin Donuts Sign was located within the City’s D-1 zone and in an area that has been designated as a “special gateway” for billboards. Thus, the provisions of Salt Lake City Code that govern billboards in special gateways apply.

Those provisions provide that “if a nonconforming billboard is demolished within a special gateway, the billboard owner may construct a new billboard along the same special gateway “in a zoning district equal to or less restrictive than that from which the nonconforming billboard was removed.”¹ A new billboard may only be constructed in a special gateway if the billboard owner has deposited billboard credits in the City’s billboard bank for that specific special gateway and the credits must be used within 36 months of the date of demolition of the billboard.²

Upon demolishing the Dunkin Donuts Sign, Reagan deposited 1272 credits in the City’s 400 South special billboard bank. On February 7, 2018, Reagan applied to use those credits to construct a new billboard at 775 East 400 South. The new location is within the City’s 400 South

¹ Salt Lake City Code § 21A.46.160(O).

² Salt Lake City Code § 21A.46.160(O)(2).

special gateway, but is zoned TSA-UN-T, which is more (not equal or less) restrictive than the D1 zoning at the location of the removed sign. For that reason, the zoning administrator found the application did not meet the requirements of section 21A.46.160(O) and denied the request. Reagan appeals that decision.

SUMMARY OF ARGUMENT

The appeals hearing officer should uphold the zoning administrator’s decision because the TSA-UN-T zone is a more restrictive zone than the D1 zone and the application is not permitted by the plain language of the section 21A.46.160(O) of the Salt Lake City Code. This interpretation does not give rise to absurd results or render the City’s billboard bank superfluous.

The hearing officer may also disregard Reagan’s arguments that it was not provided notice under a provision the Utah State Transportation Code, that it is entitled to just compensation under provisions of state code, and that the City’s billboard bank violates provisions of state law. The hearing officer does not have authority to make these determinations and, even if he did, the arguments lack merit.

ARGUMENT

1. The Hearing Officer’s Authority to Address the Arguments Raised.

The City’s hearing officers are conferred authority to review for correctness a zoning administrator’s interpretation or application of Salt Lake City Code.³ The City’s hearing officers do not have authority to determine the scope or meaning of Utah Code or decide if provisions of Salt Lake City Code are contrary to or violate provisions of state law.⁴ Those determinations are for the district court:

The Hearing Officer is the designated appeal authority and the officer’s authority is limited to considering applications of land use ordinances. *See* Utah Code § 10-9a-707(4) (“Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority.”); City Code § 21A.16.010 (authority of Hearing Officer). The Hearing Officer does not have authority to determine, on a de novo or any other basis, whether the City’s decisions were correct under State law. That determination is left to the district court. *See* Utah Code § 10-9a-801(2)(a) (“ Any person adversely affect by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with

³ Salt Lake City Code § 21A.16.010 (“the hearing officer shall hear and decide appeals alleging an error in any administrative decision made by the zoning administrator . . . in the administration or enforcement of [Title 21A].”)

⁴ *See e.g.* Utah Code § 10-9a-707(4) (“Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority.”); *Bennion v. Sundance Development*, 897 P.2d 1232, 1236, n.5 (Utah 1995) (finding County board was limited to review of interpretation of County code.)

the district court . . .”). To the extent that the Hearing Officer considered the City’s application of state law - that is the City’s decision to waive (or not waive) the City Code’s prohibition on billboard relocation pursuant to Section 511 - the court will disregard the Hearing Officer’s decision and instead review the Mayor’s decision as if had been appealed directly pursuant to section 10-9a-801(2)(a), applying the arbitrary, capricious, or illegal standard of section 10-9a-801(3)(a). Insofar as the Hearing Officer considered or applied City Ordinance, the court will review the Hearing Officer’s decision under the same standard.⁵

Reagan challenges the zoning administrator’s decision both on grounds that the hearing officer has authority to decide and on grounds that the hearing officer does not have authority to decide. The hearing officer’s authority to address the issue Reagan raised is discussed together with the City’s response to each issue.

2. The TSA-UN-T zoning district is more restrictive than the D-1 zoning district.

a. Authority of the hearing officer to address this question and the standard of review.

Reagan argues the zoning administrator erred because the TSA-UN-T zoning district is not more restrictive than the D1 zoning district. This argument requires the hearing officer to review the zoning administrator’s interpretation of various provisions of Salt Lake City Code, which is squarely within the authority of the hearing officer.⁶ In addressing this argument, the hearing officer is charged with determining the correctness of the zoning administrator’s interpretation and application of the plain meaning of provision of the Salt Lake City Code⁷ and the rules of statutory interpretation apply.⁸

b. The TSA-UN-T zoning district is more restrictive than the D-1 zoning district.

The proposed 775 East Sign is located in the TSA-UN-T zone. The TSA-UN-T zone is the City’s “transit station area district” under section 21A.26.078 of the Salt Lake City Code. The

⁵ Memorandum Decision, Feb. 3, 2016, *Outfront Media v. Salt Lake City*, Case No. 160900413. *See also Bennion*, 897 P.2d at 1236, n.5 (Utah 1995) (finding County board was limited to review of interpretation of County code.)

⁶ Utah Code § 10-9a-707(4)(a).

⁷ *See e.g.* Utah Code § 10-9a-707(4)(a) (an appeal authority shall “determine the correctness of the land use authority’s interpretation and application of the plain meaning of the land use regulations”); *Brown v. Sandy City Bd. of Adjustment*, 957 P.2d 207, 209 (Utah Ct. App. 1998) (stating an appellate authority reviews the staff’s interpretation of an ordinance for correctness.)

⁸ *See e.g. Brendle v. City of Draper*, 937 P.2d 1044, 1047 (Utah Ct. App. 1997).

transit station areas are broken up into area types. The 775 East Sign location is in the “Urban Neighborhood Station” (TSA-UN). It is defined as:

An evolving and flexible development pattern defines an urban neighborhood station area. Urban neighborhoods consist of multilevel buildings that are generally lower scale than what is found in the urban center station area. The desired mix of uses would include ground floor commercial or office uses with the intent of creating a lively, active, and safe streetscape.⁹

In addition, the 775 East Sign location is in a “transition area,” as indicated by the “T” in the zoning designation. The purpose of a transition area is:

[T]o provide areas for a moderate level of land development intensity that incorporates the principles of sustainable transit oriented development. The transition area is intended to provide an important support base to the core area and transit ridership as well as buffer surrounding neighborhoods from the intensity of the core area. These areas reinforce the viability of the core area and provide opportunities for a range of housing types at different densities. Transition areas typically serve the surrounding neighborhood and include a broad range of building forms that house a mix of compatible land uses. Commercial uses may include office, retail, restaurant and other commercial land uses that are necessary to create mixed use neighborhoods.

In other words, the TSA-UN-T zone was established to create a transitional zone between the higher density land uses around the 400 South TRAX line and the neighborhoods near the TRAX. The transition is achieved with lower heights for buildings, larger setbacks, and a less intensive mix of uses.¹⁰

In contrast, the D-1 zone is the City’s highest density zone. The purpose of the D-1 zone is to “provide for commercial and economic development within Salt Lake City’s most urban and intense areas,” through very intense development “with high lot coverage and large buildings that are placed close together.”¹¹ This intense development is supported by the building heights in the D-1 zone: building heights can be between 100 and 375 feet.¹² Setbacks are also limited and cannot exceed five feet in most areas of the D-1 Zone.¹³ The effect of this is to create a zone that supports dense construction that is close together with tall structures. The D-1 zone is significantly less restrictive than the TSA-UN-T zone in height regulations, intensiveness of uses, and setback regulations. The City’s Planning Division analyzed the two zones and list specific instances in

⁹ Salt Lake City Code §21A.26.078(B)(2).

¹⁰ See Salt Lake City Code § 21A.26.078E2 (Table of Building Height Regulations); Salt Lake City Code § 21A.26.078E3b (Table of Setback Standards).

¹¹ Salt Lake City Code § 21A.30.020(A).

¹² See Salt Lake City Code § 21A.30.020(E)(6).

¹³ Salt Lake City Code § 21A.30.020(E)(6).

which the D-1 zone is less restrictive than the TSA-UN-T zone in the analysis attached as Exhibit A.

Reagan argues the TSA-UN-T zone is not more restrictive than the D1 zone because (1) billboards are not permitted in either zone; (2) the billboard ordinance allows movement of the billboard *anywhere* within the special gateway, and (3) the billboard ordinance sets out the hierarchy of the zoning districts. Each of these arguments fail.

First, zoning regulates more than whether a use is permitted or not and the restrictiveness of a zoning district is not determined based solely on whether billboards are a permitted use. A zoning district can regulate density, height, and setbacks and whether a particular zoning district is more restrictive than another is determined based on all these factors.

Here, there is no question that the TSA-UN-T zone is more restrictive than the D-1 zone. The TSA-UN-T zone is a transition zone into a residential area and requires more limited density and lower heights. The purpose of the TSA-UN-T zone is to limit the intensity of development to protect the adjacent neighborhood, and it achieves that goal through a variety of zoning tools that are more restrictive than the D-1 zone, including, by requiring significantly lower minimum and maximum building heights,¹⁴ prohibiting surface parking in the front of principal buildings in the transition zones,¹⁵ and providing incentives through the “development score” process for adhering to development guidelines for the transit zone.¹⁶

Second, the plain language of the billboard ordinance makes clear a billboard may not be relocated *anywhere* within the special gateway. Relocation is limited to a zoning district within the special gateway that is “*equal to or less restrictive.*”¹⁷

Third, Reagan argues section 21A.46.160(F) prioritizes removal of billboards in the D-1 zone and, therefore, the City cannot claim that the TSA-UN-T zone is more restrictive. This is incorrect. Section 21A.46.160(F) sets the rules for administering the general billboard bank. It states a billboard owner may only build a new billboard in a residential, historic, or downtown zone if it demolishes two billboards in a lower hierarchy zone (such as CN, CB, or gateway). This rule for administering use of billboard credits in the City’s general billboard bank has no application to the rules for administering use of billboard credits in a special gateway account, which are governed by Salt Lake City Code § 21A.46.160(O) and requires a comparison of the relative restrictiveness of the zoning districts within the special gateway.

Section 21A.46.160(F) also fails to provide any guidance on the relative restrictiveness of the TSA-UN-T and D1 zones. It does not mention the TSA-UN-T zone because the ordinance creating that zone was passed long after the passage of section 21A.46.160(F). Section 21A.46.160(F) also does not engage in any analysis of the relative restrictiveness of the zones

¹⁴ See City Code § 21A.26.078 (Table E2, Building Height Regulations, comparison between core TSA zones and transition zones).

¹⁵ See Salt Lake City Code § 21A.26.078(H)(3).

¹⁶ See Salt Lake City Code § 21A.26.078(D).

¹⁷ Salt Lake City Code § 21A.46.160(O).

identified—listing the extremely restrictive historic zone together with the much less restrictive D1, D2 and D3 zones.

The TSA-UN-T zone is not equal to or less restrictive than the D-1 zone. It is unquestionably more restrictive. For that reason, the zoning administrator correctly interpreted the ordinance and properly denied Reagan’s request to use its 400 South special gateway billboard credits to build a new sign at 775 East 400 South. That decision should be affirmed.

3. The Notice Provisions of Utah Code § 72-7-506 do not Apply.

a. Authority of the hearing officer to address this question.

Reagan incorrectly argues the TSA-UN-T zoning does not apply to Reagan because a provision of state code required the City to provide Reagan special and additional notice of the passage of 21A.26.078, which enact this and other zoning districts. This argument requires an interpretation and application of state code, which exceeds the authority conferred a City hearing officer.

b. The notice provision of Utah Code § 72-7-506 does not apply.

To the extent the hearing officer addresses this state law question, the notice provisions of Utah Code § 72-7-506 do not apply for two reasons. First, Utah Code § 72-7-506 only applies to changes or proposed changes to the *outdoor or off-premise advertising provisions* of municipal ordinances. Section 21A.26.078 is not an outdoor or off premise advertising provision. Rather, it creates zoning districts for application to areas around transit stations. No reference is made to outdoor or off-premise advertising.

Second, Utah Code § 72-7-506 expressly states it only applies to ordinance changes or proposed ordinance changes made under the authority of Title 72, Chapter 7, Part 5 of the Utah Code. Section 21A.26.078 is a zoning provision enacted under the authority provided municipalities under Utah Code Title 10, Chapter 9a.¹⁸ The notice provision of Utah Code § 72-7-506 simply does not apply.

4. Finding the TSA-UN-T zone is more Restrictive does not give rise to Absurd Results.

a. Authority of the hearing officer to address this question.

Reagan incorrectly claims the zoning administrator’s interpretation of Salt Lake City code gives rise to absurd results. This argument requires interpretation of the Salt Lake City Code, which the hearing officer has authority to address.

b. The administrator’s interpretation of § 21A.46.160(O) does not give rise to absurd results.

The zoning administrator’s interpretation of § 21A.46.160(O) does not rise to absurd results because Reagan may relocate to D1 or TSA-UC zones in the 400 South special gateway.

¹⁸ See e.g. Utah Code § 10-9a-505(1)(a).

The D-1 zone is analogous to the TSA-UC zone. The TSA-UC zone is the urban center station zone and “contains the highest relative intensity level and mix of uses.”¹⁹ This type of station area is meant to support Downtown Salt Lake and not compete with it in terms of building scale and use.”²⁰ The TSA-UN zone and the D-1 zone are much more analogous, in contrast to the TSA-UN-T zone, which is intended to “buffer surrounding neighborhoods from the intensity of the core area.”²¹

As shown on the map attached as Exhibit B, there are ample properties in the TSA-UC zone along the 400 South special gateway. If Reagan had negotiated a billboard lease with a property owner located in the TSA-UC zone in the 400 south special gateway, it could have used its billboard credits in that equal or less restrictive zoning district. But, Reagan chose to negotiate a lease to locate the billboard at 775 East 400 South, in the TSA-UN-T zone. Reagan had three years to negotiate a lease with a willing property owner in an appropriate zone. Reagan failed to do so and the City is not required to approve the new billboard request.

5. The City does not owe just compensation for Reagan’s failure to find an acceptable site to use its billboard credits.

a. Authority of the hearing officer to address this question.

Reagan argues that if the zoning administrator’s interpretation of § 21A.46.160(O) is correct, just compensation is owed. No provision of Salt Lake City Code requires the payment of just compensation, if a billboard owner fails to meet the requirements § 21A.46.160(O). The hearing officer has authority to address that issue. To the extent Reagan argues just compensation is owed under provisions of state code or that Salt Lake City Code is contrary to state code, those issues are beyond the authority afforded the hearing officer.

b. Salt Lake City Code does not Require Payment of Just Compensation.

When a billboard lease terminates and a billboard is going to be evicted from the site the billboard owner has two options. One, immediately apply for relocation of the billboard as permitted by state law.²² Two, demolish the billboard and bank the billboard credits in the City’s billboard bank.²³ If the billboard owner pursues the first option and requests relocation under state law the request to relocate must be made prior to demolition and eviction.²⁴ If the request meets all the requirements of state law, and the request is denied, just compensation may be owed.²⁵

If the billboard owner pursues the second option, the billboard owner may deposit billboard credits in the City’s billboard bank *after* demolition of the billboard. The billboard owner then has

¹⁹ Salt Lake City Code § 21A.26.078(B)(1).

²⁰ Salt Lake City Code § 21A.26.078(B)(1).

²¹ Salt Lake City Code § 21A.26.078(A)(2).

²² See Utah Code § 10-9a-511((2)(c).

²³ See Salt Lake City Code § 21A.46.160.

²⁴ See Utah Code § 10-9a-511(2)(c).

²⁵ See Utah Code § 10-9a-513.

an additional three years to find a location that meets the requirements of relocation through the City's billboard banking system. No provision of state code requires the city to provide a billboard owner three additional years after eviction from a site to find a new location and no provision of state law requires a municipality to pay just compensation if the billboard fails to find a new location in the additional three years the municipality has elected to provide the billboard owner to find a new location.

In this case Reagan did not request relocation under state law prior to demolishing its billboard, presumably because Reagan had not negotiated a lease and had no site to move to. Rather, Reagan elected to bank its credits and take advantage of the three additional years provided by City ordinance. Reagan was unable to find a suitable location in those three years. No provision of state or city code requires the City to pay just compensation for that failure.

6. The City's billboard bank is not an illegal amortization of a billboard nonconforming use.

a. Authority of the hearing officer to address this question.

Reagan incorrectly argues the City's billboard bank violates state law because Utah Code § 10-9a-511(2)(b) prohibits municipalities from terminating billboards through amortization. This argument requires an interpretation and application of state code, which exceeds the authority conferred a City hearing officer.

b. The City's billboard bank is not an illegal amortization of billboards.

The City's billboard bank does not provide for the termination of a billboard through amortization. As described above, if a lease terminates and a billboard is evicted from property the billboard naturally retires through no action of the City. A billboard owner may preserve the billboard, if it applies to relocate the billboard under state law prior to eviction and demolition of the billboard. Alternatively, if the billboard owner is unable to find a location that meets the requirement of relocation under state law prior to eviction, the billboard owner may take advantage of the City's billboard bank. By doing so the billboard owner gains an additional 36 months to identify a location that meets the requirement of City code. As such, far from terminating the billboard, the billboard banking system actually provides an additional 36 months for the billboard owner to find a location for a billboard that otherwise naturally retires through no action of the City.

CONCLUSION

For the reasons stated above, the zoning administrator properly denied Reagan's application to use billboard credits in the 400 South special gateway to construct a new billboard at 775 East and 400 south. That decision should be affirmed.

EXHIBIT A TO SALT LAKE CITY BRIEF

APPEAL NO. PLNAPP2018-00278

Planning Division Analysis of D-1 Zone and TSA-UN-T Zone

The Administrative Decision that the TSA-UN-T (Transit Station Area-Urban Neighborhood Station-Transition) zoning district is more restrictive than the D-1 (Central Business District) considered the zoning ordinance sign regulations and development regulations in relation to both zoning districts.

Development Regulations

Section [21A.26.078](#) of the zoning ordinance regulates TSA-UN-T zoned properties. Downtown Districts are regulated by section [21A.30](#), and section [21A.30.020](#) has specific regulations for properties in the D-1 zoning district.

In regards to maximum building height, the TSA-UN-T zoning district is more restrictive than the D-1 zoning district. The maximum height for buildings in the TSA-UN-T zone is 50 FT. Corner buildings in the D-1 zone shall not be less than 100 FT or more than 375 FT in height. A building height greater than 375 FT may be allowed through the Conditional Building and Site Design Review Process subject to the standards and procedures of chapter [21A.59](#) of the zoning ordinance.

In regards to setbacks, the TSA-UN-T zoning district is more restrictive than the D-1 zoning district. The TSA-UN-T corner and front yard setback requirements for properties located on 400 South is a minimum of 10 FT, and at least 50% of the street facing building façade must be built to the minimum. In the D-1 zoning district, no minimum front or corner side yards are required, however no setback shall exceed 5 FT unless approved through the Conditional Building and Site Design review process. The setback requirements in the D-1 zoning district allow for a larger developable area on a parcel than the TSA-UN-T setback regulations.

In addition to height and setback regulations, the TSA-UN-T zoning district has a more restrictive review process for new development than the D-1 zoning district. With the exception of single and two family dwellings, any addition of 1,000 SF or more is required to obtain a Development Score. The development score measures the level of compatibility between a proposed project and the station area plan. The development score is based on the development guidelines and development incentives in the Transit Station Area Development Guidelines. Project receiving a development score of 124 points or less will be reviewed and decided on by the Planning Commission. Projects receiving a score of 125 points or more qualify for administrative review. In contrast, new development in the D-1 zoning district does not require a planning review process unless height in addition to the permitted 375 FT is sought.

Sign Regulations

Section [21A.46](#) of the Salt Lake City zoning ordinance regulates signs. The zoning ordinance sign standards regulate the types of signs that are allowed, the number of signs, size, height, and setbacks. Section [21A.46.095](#) regulates signs for properties located in the TSA-UN-T zoning district. Sign regulations for properties located in the D-1 zone are regulated under section [21A.46.110](#).

In terms of types of sign types that are allowed, the D-1 zoning district is more permissible than the TSA-UN-T. The following signs types are allowed in the D-1 zoning district but are not allowed in TSA-UN-T zoning district:

- **Canopy, drive-through** - 40% of canopy face if signage is on 2 faces; 20% of canopy face if signs are on 4 faces
- **Canopy Signs** - 1 square foot per linear foot of storefront (sign area only); 20 square feet maximum per canopy
- **Pole Sign** - 1 square foot per linear foot of street frontage; 200 square feet maximum for a single business, 300 square feet maximum for multiple businesses. Maximum height of 45 feet.
- **Projecting Building Sign** - 125 square feet per side; 250 square feet total
- **Outdoor Television Monitor** - 62 square feet
- **Roof Signs** - 4 square feet per linear foot of building face or 6 square feet per linear foot of building face on buildings taller than 100 feet
- **Window Signs** – 25% of the total area of window frontage per use

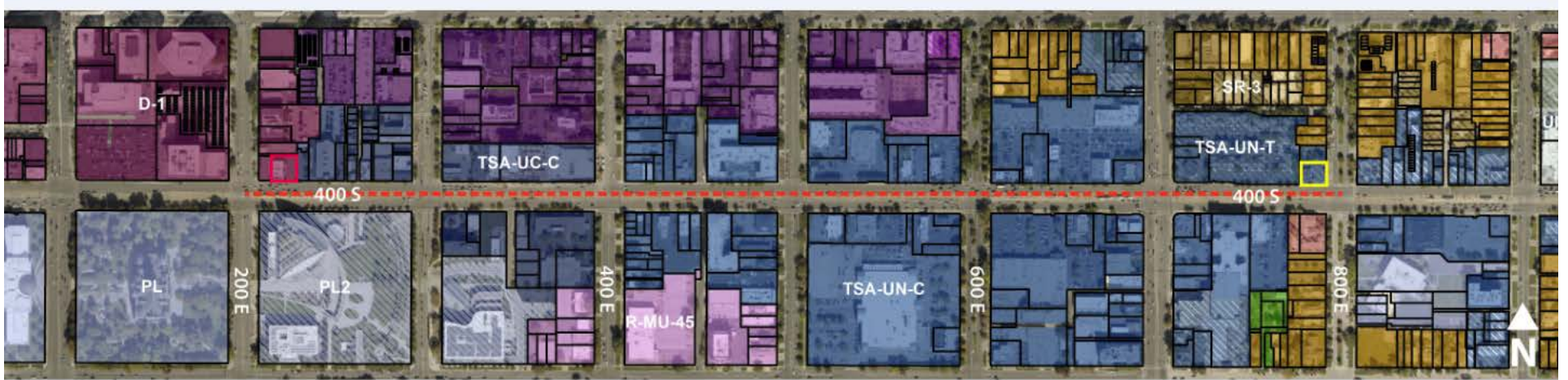
Of the sign types that are allowed in both zoning districts, the TSA-UN-T is more restrictive than the D-1 zone in terms of the permitted size, height and number of signs. The following chart summarizes the difference in zoning regulations for some of the sign types that are permitted in both districts:


SIGN TYPE	REGULATION	TSA-UN-T SIGN REGULATIONS	D-1 SIGN REGULATIONS
FLAT SIGN (GENERAL BUILDING ORIENTATION)	MAXIMUM SIGN FACE	1.5 SQ FT per linear foot of building face	4 SQ FT per linear foot of building face
MONUMENT SIGN	MAXIMUM SIGN FACE	100 SQ FT	1 SQ FT per linear foot of street frontage
	HEIGHT	12 FT	20 FT
NEW DEVELOPMENT SIGN	MAXIMUM SIGN FACE	80 SQ FT	200 SQ FT
	# OF SIGNS	1 per development	1 per street frontage
PROJECTING BUSINESS STOREFRONT SIGN	MAXIMUM SIGN FACE	4 SQ FT per side; 8 SQ FT total	9 SQ FT per side; 18 SQ FT total
	HEIGHT	2 FT	4 FT

EXHIBIT B TO SALT LAKE CITY BRIEF

APPEAL NO. PLNAPP2018-00278

400 South Special Gateway Zoning Map



 D-1 zoned parcel where nonconforming billboard was demolished

 400 S Special Gateway

 TSA-UN-T zoned parcel where new billboard is proposed