



Staff Report

PLANNING DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Appeals Hearing Officer

From: Amy Thompson, amy.thompson@slcgov.com or 385-226-9001

Date: May 13, 2021

Re: PLNAPP2021-00090 – Appeal of an Administrative Decision to Deny a Permit to Construct a Billboard – *Building Permit BLD2020-02188*

Appeal of Administrative Decision

PROPERTY ADDRESS: Approximately 1650 S State Street

PARCEL ID: 16-18-157-020

PARCEL DISTRICT: CC (Commercial Corridor) & SSSC (South State Street Corridor Overlay)

ZONING ORDINANCE SECTIONS:

- 21A.46.160 Billboards
- 21A.16 Appeals of Administrative Decisions

APPELLANT: Reagan Outdoor Advertising, represented by Joshua Peterman

APPEAL ISSUE:

Salt Lake City made an administrative decision to deny a request by Reagan Outdoor Advertising to construct a billboard at approximately 1650 S State Street. The request was denied because the proposed billboard does not meet the spacing requirements in section 21A.46.160.T of the zoning ordinance.

21A.46.160

T. 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.*

The proposed billboard is located closer than 300 feet to an existing billboard on the same side of the street located at approximately 1626 S State Street (billboard City I.D. #165).

ATTACHMENTS:

- [A. Appeal Application](#)
- [B. Salt Lake City Attorney Response to Appeal](#)
- [C. Photos & Maps](#)
- [D. Public Comments](#)

ATTACHMENT A: APPEAL APPLICATION

Reasons for Appeal:

By email dated January 25, 2021, the City denied Reagan Outdoor Advertising's ("ROA") application to construct a billboard at 1650 S. State St., Salt Lake City, UT (BLD2020-02188).

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

After reading the previous decision by the Appeals Hearing Officer (PLNAPP2020-00569) I concluded that the record of decision only made a determination of spacing for the billboard located at 1650 South State Street that is oriented towards 1700 South. The proposed Arby's billboard is also located closer than 300 feet to another billboard (billboard--City I.D. #165) located at 1626 S. State Street and therefore your application still does not comply with the minimum 300 feet spacing as per 21A.46.160.T. Appeal of this decision is through the Zoning Administrator and the SLC Planning Division.

See email, attached hereto as Exhibit A. The sign located at 1626 S. State Street is referred to herein as the "Illegal Billboard."

The City's denial of ROA's application is illegal and contrary to law for the following reasons:

1. Res Judicata Bars the City's Argument.

The City's current position is barred by *res judicata*. "Although initially developed with respect to the judgments of courts, the same basic policies, including the need for finality in administrative decisions, support application of the doctrine of *res judicata* to administrative agency determinations." *Salt Lake Citizens Congress v. Mountain States Tel. & Tel. Co.*, 846 P.2d 1245, 1251 (Utah 1992).

The City already unsuccessfully attempted to deny the permit on or about July 17, 2020 based on a "spacing" requirement. That denial was appealed and on December 10, 2020, the hearing officer granted ROA's appeal and reversed the City's decision. See Decision attached hereto as Exhibit B. The City never appealed the decision to the district court and now, rather than complying with the decision, the City has asserted a different basis to deny the permit, which is impermissible.

"The doctrine of *res judicata* embraces two distinct theories: claim preclusion and issue preclusion." *Buckner v. Kennard*, 2004 UT 78, ¶ 12, 99 P.3d 842. The City's denial must be reversed under either theory.

Claim preclusion involves the same parties or their privies and also the same cause of action, "and this precludes the relitigation of all issues that could have been litigated as well as those that were, in fact, litigated in the prior action." *Macris & Assocs., Inc. v. Neways, Inc.*, 2000 UT 93, ¶ 19, 16 P.3d 1214. The three elements necessary to establish claim preclusion are:

First, both cases must involve the same parties or their privies. Second, the claim that is alleged to be barred must have been presented in the first suit *or* must be one that could and should have been raised in the first action. Third, the first suit must have resulted in a final judgment on the merits.

Id. at ¶ 20.

These three elements are clearly met. The prior appeal involved the same parties, the City's allegation that the Illegal Billboard prevents issuance of a permit could or should have been raised in the prior appeal, and the prior appeal resulted in a final decision by the hearing officer.

Issue preclusion, or collateral estoppel, "prevents parties or their privies from relitigating facts and issues in the second suit that were fully litigated in the first suit." *Oman v. Davis School Dist.*, 2008 UT 70, ¶ 28, 194 P.3d 956. The purposes of issue preclusion include:

"(1) preserving the integrity of the judicial system by preventing inconsistent judicial outcomes; (2) promoting judicial economy by preventing previously litigated issues from being relitigated; and (3) protecting litigants from harassment by vexatious litigation."

Id. (quoting *Buckner*, 2004 UT 78, ¶ 14).

Issue preclusion bars Plaintiff's current claim if four elements are met:

(i) the party against whom issue preclusion is asserted must have been a party to or in privity with a party to the prior adjudication; (ii) the issue decided in the prior adjudication must be identical to the one presented in the instant action, (iii) the issue in the first action must have been completely, fully, and fairly litigated; and (iv) the first suit must have resulted in a final judgment on the merits.

Oman, 2008 UT 70, ¶ 29.

Again, all factors are met. Both appeals involve the same parties, the "spacing" issue is identical in both matters, the issue was fully litigated, and there was a final judgment on the merits.

The City is expected to argue that the Illegal Billboard justifies its denial of the permit, but the law does not permit a party to avoid application of res judicata by asserting "new" facts that were in existence at the time of the original proceeding. The Illegal Billboard was present at the time that the first appeal was heard, and not only could the City have raised the issue, it specifically argued that the Illegal Billboard supported the denial of the requested permit. The hearing officer apparently did not find this argument persuasive and the City had the option of appealing the decision to the district court, which it failed to do, and the decision is now fully binding on the parties.

The Utah Court of Appeals has held:

Having been defeated on the merits in one action, a plaintiff sometimes attempts another action seeking the same or approximately the same relief but adducing a different substantive law premise or ground. This does not constitute the presentation of a new claim when the new premise or ground is related to the same transaction or series of transactions, and accordingly the second action should be held barred.

Nipper v. Douglas, 2004 UT App 118, ¶ 10, 90 P.3d 649 (quoting *Berry v. Berry*, 738 P.2d 246, 248 (Utah Ct.App.1987).

Failure to reverse the City's denial would subject citizens to potentially endless administrative proceedings. The City would be able to sandbag its reasons for denying a requested permit in case it was reversed on appeal. If reversed, the City could then assert another reason, forcing the property owner through another appeal and the pattern could continue indefinitely. The fundamental purpose of res judicata is to ensure that this type of wasteful and redundant litigation does not occur.

2. The Illegal Billboard Cannot Impact ROA's Rights.

Even if res judicata does not apply, the existence of the Illegal Billboard has no impact on ROA's rights. The proposed billboard will be located at 1650 S. State St., Salt Lake City, UT. Pursuant to the Highway Beautification Act, and subsequent Utah-Federal Agreement, found at R933-5-2, State Street is classified as an "outdoor advertising corridor." To construct and maintain a billboard along this corridor, one must not only obtain a building permit from the City, they must also obtain a permit from the Utah Department of Transportation ("UDOT"). See R933-2-3.

UDOT maintains a publicly available interactive map showing the location(s) of all permitted billboards.¹ The Illegal Billboard is not identified on UDOT's map because it has never been properly permitted. See Exhibit C. Moreover, the City does not have any documentation or evidence that whoever constructed the Illegal Billboard ever received a City permit for an off premise sign. ROA submitted a GRAMA request seeking information related to any sign permits issued for the property where the Illegal Billboard is located. The City was unable to produce any such documents and it must be assumed that no permit exists. See GRAMA response attached hereto as Exhibit D.

Presumably, the City does not have any records related to the Illegal Billboard because the property owner never obtained a permit to construct the sign. Just north of the Illegal Billboard is another ROA sign that is properly permitted by both the City and UDOT and has

¹<https://uplan.maps.arcgis.com/home/webmap/viewer.html?webmap=70d4e513218540f4a5c4c11610d0bf5b&extent=-119.143,34.7778,-103.491,43.8178>

been in place since at least 1963. *See Exhibit E.* The Illegal Billboard is located less than 300 feet from ROA's legal billboard and could never have been approved under the same ordinance that the City is relying on to deny ROA's current application. *See Exhibit F.* The City (or UDOT) may be able to pursue an enforcement action against the Illegal Billboard, but this does not impact ROA's requested permit.

There is no authority that would support the City's argument that an illegal sign should be considered when determining the spacing requirements set forth in Salt Lake City Code 21A.46.160.T.1. The only billboards that can be referenced when determining the spacing are those that have been properly permitted. The Illegal Billboard has no relevance to the permit application. Both the existing ROA sign and the proposed sign are classified as "small" signs and they will each be located more than 300 linear feet from any other small billboard on the same side of the street. Therefore, the signs are properly spaced under the applicable ordinance and the City's denial should be reversed.

EXHIBIT A

From: Michelsen, Alan <Alan.Michelsen@slcgov.com>
Sent: Monday, January 25, 2021 3:52 PM
To: Victoria Lara <Victoria@reaganusa.com>
Cc: Paterson, Joel <joel.paterson@slcgov.com>
Subject: RE: (EXTERNAL) BLD2020-02188

Hi Victoria, Sorry for the delayed response.

After reading the previous decision by the Appeals Hearing Officer (PLNAPP2020-00569) I concluded that the record of decision only made a determination of spacing for the billboard located at 1650 South State Street that is oriented towards 1700 South. The proposed Arby's billboard is also located closer than 300 feet to another billboard (billboard--City I.D. #165) located at 1626 S. State Street and therefore your application still does not comply with the minimum 300 feet spacing as per 21A.46.160.T. Appeal of this decision is through the Zoning Administrator and the SLC Planning Division.

ALAN R. MICHELSEN
Senior Development Review Planner

**BUILDING SERVICES DIVISION
DEPARTMENT OF COMMUNITY AND NEIGHBORHOODS
SALT LAKE CITY CORPORATION**

Telephone: 385-261-6648

www.SLC.GOV.COM

Disclaimer: The Building Services Division strives to provide the best customer service possible and to respond to questions as accurately as possible based upon the information provided. However, answers given prior to building permit approval are not binding and cannot be used to approve, construction in violation of State and Municipal Codes. Preliminary written or verbal feedback is not a substitute for an approved building permit.

EXHIBIT B

Salt Lake City Land Use Appeals Hearing Officer
PLNAPP2020-00569
Appeal from Administrative Decision
1650 S State Street – Reagan Outdoor Advertising
December 10, 2020

This is an appeal from an administrative decision to deny a request by Reagan Outdoor Advertising (ROA) to construct a billboard on the property located at approximately 1650 S. State Street. The denial of the building permit BLD2020-02188 was based on the distance requirement from another billboard. The appellant claims that the interpretation of the requirement is incorrect. The appeal is granted as explained below.

RECORD

The record includes the Staff Report, a document of 23 pages dated November 12, 2020, an undated “revised appeal” filed by ROA; an appeal brief filed by the City Attorney dated November 5, 2020; supplemental briefing by the City Attorney dated November 25, 2020; an email response from the attorney for ROA filed November 29, 2020. The record also includes several exhibits which were attached to the briefing or provided separately including those entitled: 1739 S State Street (screen shots); 1999 Aerial; Building Permits Report (1360 S. Redwood Road); Distance from Tattoo Sign; Documents related to Demolition Application; May 2002 Google Earth Image; Property owner communication; Screen Shots (1651 S State Street); and Sign Rendering (1650 S State Street). On November 18, 2020 counsel for ROA also provided three more exhibits, Pioneer Road Permit; Pioneer Rd-SitePlan; and California Road Permit. Also included in the record is a recording of the Webex electronic hearing held on November 12, 2020.

BACKGROUND

This matter involves the interpretation and application of language in the Salt Lake City Code at Section 21A.46.160 which provides:

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.

It is agreed that this section of the code applies to the location of a replacement small billboard for which ROA submitted a building permit application. The City denied the application, stating that the proposed location of the billboard does not comply with this provision of the code. ROA argues that the proposed location does comply because the words “same side of the street” do not apply to the other billboard within 300 feet that is the basis of the City’s decision to deny – that the other billboard is not on the “same side of the street”.

The new replacement billboard is proposed to be located on and oriented to State Street. Although the other billboard is indeed located within 300 feet of the proposed new billboard, the other billboard is

oriented to another street which runs perpendicular to State Street. Since the other billboard is not located on the same side *of the same street*, argues ROA, its location should not affect the opportunity to install a new billboard on State Street, which is a different street.

ANALYSIS

ROA argues here that there are three examples of billboard permits where the city code was interpreted by the City to allow billboards closer than the distance involved in the instant case when the billboards are oriented to different streets. The City basically agrees in general terms but argues that one of the examples ROA cites was before a change in the relevant text in the ordinance and that previous interpretations and applications of the ordinance language are not to be given any deference here.

This appears to boil down to how one interprets the ordinance. The City argues that on appeal, there is to be no deference to any previous interpretation of the code by the City. It points out that a court would review the interpretation of the code for correctness only, citing *Outfront Media LLC v. Salt Lake City Corp.*, 2017 UT 74, 416 P.3d 389:

In the past, we “afford[ed] some level of non-binding deference to” a local agency’s interpretation of its own ordinance. *Carrier v. Salt Lake Cty.*, 2004 UT 98, ¶ 28, 104 P.3d 1208. But this deference cannot stand in view of subsequent developments in our precedent. Our cases since *Carrier* have expressly rejected the notion of affording Chevron-style deference to state agencies’ interpretation of statutes, see *Hughes Gen. Contractors, Inc. v. Utah Labor Comm’n*, 2014 UT 3, ¶ 25, 322 P.3d 712, or regulations, see *Ellis-Hall Consultants v. Pub. Serv. Comm’n*, 2016 UT 34, ¶ 21, 379 P.3d 1270. Given that we do not defer to state agencies on pure questions of law, there is even less reason to defer to local agencies’ interpretations of ordinances, given that those local agencies “do not possess the same degree of professional and technical expertise as their state agency counterparts.” *Carrier*, 2004 UT 98, ¶ 28, 104 P.3d 1208. In keeping with our recent decisions, we review the interpretation of ordinances for correctness.

That said, we are left to determine what the “correct” interpretation of the code is. In a recent restatement, the Utah Supreme Court outlined how we are to interpret the language of a statute:

- “ . . . It is well settled that when faced with a question of statutory interpretation:
1. Our primary goal is to evince the true intent and purpose of the Legislature.
 2. The best evidence of the legislature’s intent is the plain language of the statute itself.
 3. We presume that the legislature was deliberate in its choice of words and used each term advisedly and in accordance with its ordinary meaning.
 4. Where a statute’s language is unambiguous and provides a workable result, we need not resort to other interpretive tools, and our analysis ends.
 5. However, our plain language analysis is not so limited that we only inquire into individual words and subsections in isolation;
 6. Our interpretation of a statute requires that each part or section be construed in connection with every other part or section so as to produce a harmonious whole.

7. When interpreting statutory text, we presume that the expression of one term should be interpreted as the exclusion of another,
8. We will not infer substantive terms into the text that are not already there.
9. We assume, absent a contrary indication, that the legislature used each term advisedly and
10. [We] seek to give effect to omissions in statutory language by presuming all omissions to be purposeful.”

2 Ton Plumbing LLC v. Thorgaard, 2015 UT 29; 345 P.3rd 675, ¶¶ 31-32. (The exact text of the decision by the Supreme Court is here slightly paraphrased, as shown. The entire citation has been reformatted by numbering each sentence in the two paragraphs for easier reference. Quotation marks and citations to other cases have been omitted.)

ROA cites additional language from a series of Court of Appeals cases with particular regard to the interpretation of zoning ordinances, first stated by the Court in *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (Utah Ct. App. 1995). This citation is found most recently in *Ferre v. Salt Lake City*, 2019 UT App 94, ¶17:

In applying this statutory scheme, we are mindful of Utah’s long-standing principle that “because zoning ordinances are in derogation of a property owner’s common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner.” *Patterson*, 893 P.2d at 606. Because [the zoning ordinance] allows a property owner to seek an exception to otherwise applicable land use restrictions, we must “liberally construe” the chapter “in favor of the property owner” seeking a special exception.

So we are to interpret the code to “evinced the true intent and purpose of the Legislature”, or the Salt Lake City Council in this instance, while liberally construing it in favor of the property owner. The billboard ordinance includes a purpose statement:

Purpose Statement: This section 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.

Salt Lake City Code at Section 21A.46.160.A. This statement describes at least two goals: To limit the maximum number of billboards to the current number as well as to provide “reasonable” processes and methods to relocate nonconforming billboards. It is to be noted that the proposed billboard is a replacement and does not increase the total number of billboards in the City. The purpose to limit the number of billboards is thus fulfilled even if the proposed location is allowed. The other purpose of fostering “reasonable processes and methods” to relocate billboards is at issue here.

To restate the relevant section of the code with which we are concerned:

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*.

It is undisputed that the code prohibits new billboards within certain distance of another existing large billboard unless the existing large billboard is not on the same side of the street. In other words, if the existing large billboard is on the other side of the street.

It is clear that the large billboard at issue here is not on the other side of the street – which would be the East side of State Street in this instance. The large billboard close to the proposed billboard location is West of State Street, not East. But that other billboard is not oriented to “the” street that the new billboard is to be oriented to – State Street.

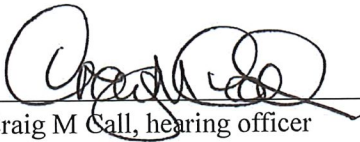
So ROA asks that the code be interpreted to provide two exceptions to the distance requirements: 1) for billboards on the other side of the street and 2) for billboards that are oriented to a different direction on a different street than “the street” where the proposed billboard is to be located. This interpretation of the existing text appears to have been applied by the City staff on at least two occasions, according to the exhibits, since the existing text was adopted. While the City’s previous interpretations are not to be given any deference, the former interpretation by the City does illustrate that the interpretation advanced by ROA is a credible one and positions this interpretation within the realm between a strict and a liberal interpretation. Reasonable minds could differ on what is intended by the plain language “the same side of ‘the’ street”.

We are directed by the Court to interpret the code liberally in favor of the property owner. The adopted language can be liberally but not unreasonably interpreted to imply that when it refers to “the” street it refers to one street and the orientation of a billboard to the traffic on that one street. That is probably what would be understood by the wording of the code in everyday conversation – that on the same side of the street means on the same side of “the” particular street where there would be a logical concern about someone traveling along the street being subjected to too many interruptions to the city’s “gateways, views, vistas and related urban design elements”. The interpretation here may be liberal but it is not unreasonable – witness the same interpretation by City staff in past years.

This interpretation also advances the purpose of the ordinance calling for “reasonable” regulations, knowing that any billboard installed in a new location is to be relocated from a prior location where it also may have interfered with public vistas. It would appear that granting the appeal advances both of the cited purposes of the billboard ordinance – it has not increased the allowed number of billboards and it imposes reasonable regulations. The City remains vested with the right to amend and clarify the code, just as it could have done at any time since the code was allegedly incorrectly interpreted ten or eleven years ago.

The Administrative Decision is reversed. The appeal is granted.

Dated this 10th day of December, 2020.



Craig M Call, hearing officer

EXHIBIT C

Home ▾ Outdoor Advertising Control Map

Details | Basemap |

Share | Print | Measure | Find address

Legend

Mile Point Measure

Mile Point Measure (ALRS)

Tenth Mile Point Measure

Outdoor Advertising

Outdoor Advertising

Billboard

UCD

Scenic Byways

Federal Aid Primary 1991

NHS

NHS

MAP 21

NHS Unbuilt

Help · Trust Center · Legal · Contact Esri · Report Abuse · Contact Us

+

-

0

1000

Merrimac Ave

Cleveland Ave

Major St

Andrew Ave

Van Buren Ave

Wood Ave

Richardson St

1700 S

Edison St

Wilson

377.6

377.5

377.4

377.3

mile 177

Salt Lake Community College - South City Campus

Innovations High School

https://uplan.maps.arcgis.com/home/webmap/viewer.html?webmap=70d4e513218540f4a5c4c11610d0bf5b&extent=-119.143,34.7778,-103.491,43.8178 1/1

EXHIBIT D

--- Please respond above this line ---



RE: GRAMA Request
GRAMA No: C087784-121020

Dear Joshua Peterman:

This email responds to your request for information to Salt Lake City, dated and received in our office on 12/10/2020.

Record Requested: General - Please provide copies of all documents, including but not limited to applications submitted and permits issued, related in any way to BLD1991-64143 (issued on or about 11/19/1991)

Please produce a full and complete copy of Title 21A of the Salt Lake City Code in effect as of November 19, 1991.

The Salt Lake City Corporation has reviewed its files and has determined there are no responsive records not already provided to the public.

All building permit information related documents after 2007 can be found online through the Citizens Access Portal at: <https://aca.slcgov.com/citizen/>

In 1991 the City began the rewrite project of the zoning ordinance and there is not a readily available copy of the 1991 zoning ordinance. Additionally, Title 21A did not exist prior to the 1995 codified copy.

The request for site/construction drawings is not information Salt Lake City Building Services can provide. Plans are generally kept for no longer than seven years, where also, such plans are proprietary in nature and could only be released upon permission of the generator/creator of those plans.

If you have any questions, or wish to discuss this further, please contact the Recorder's office at 801-535-7671.

Sincerely,

Cindy Lou Trishman
City Recorder

EXHIBIT E

ZONING	Q10. 8/27/63
ELECTRICAL INSPECTOR	
CITY ENGINEER	

Permit No.

Salt Lake City, Utah, 8/27, 1963

To the Honorable Mayor and
Board of City Commissioners
Salt Lake City, Utah

Gentlemen:

We hereby respectfully petition your honorable body for a permit to ^{Rebuild} ~~erect~~ a
Advertising sign sign (Specify type of sign)
adjacent to the premises at No. 1606 South State Street,
Salt Lake City, Utah, as per description and sketch accompanying this petition.

Respectfully submitted,

Harry H. Packer Co.

SIGN IN INK. If an individual, sign first name in full. If a corporation, sign by proper official.

SPECIFICATIONS FOR SIGNS

LOCATION: No. 1606 South State Street C-3 Zone
Owner of Premises George H. Brown Occupant A-1 Vacuum Co.
Owner of Sign Harry H. Packer Co.
DIMENSIONS: Length 25 ft. 0 inches
Width 12 ft. 0 inches
APPROXIMATE WEIGHT _____ pounds
SUPPORTS: Kind and Size _____
FEEDERS: Number and Size _____
MAXIMUM PROJECTION FROM BUILDING _____ Ft.
Name of Electrician Doing Primary Wiring _____ WORK ORDER NO. _____

PLOT PLAN

Building

SKETCH OF PROPOSED SIGN

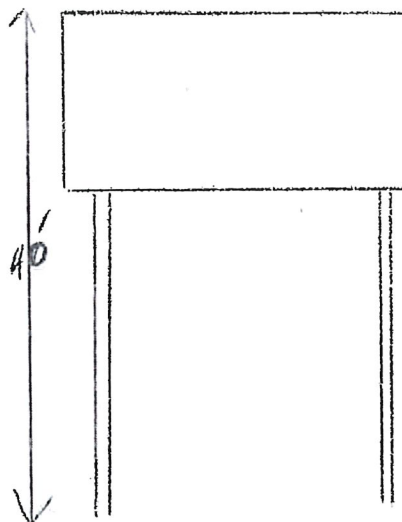


EXHIBIT F



EXISTING SIGN
300 SQ FT "SMALL SIGN"
1600 S STATE STREET
CITY PERMIT # 8/27/1963
STATE PERMIT # 2-2037

205'

310'

ILLEGAL BILLBOARD

PROPOSED LOCATION
300 SQ FT "SMALL SIGN"
PERMIT # BLD 2020-02188

**ATTACHMENT B: SALT LAKE CITY ATTORNEY
RESPONSE TO APPEAL**

ADMINISTRATIVE HEARING OF A LAND USE APPEAL
(Case Nos. BLD2020-02188 and PLNAPP-2021-00090)

(May 6, 2021)

Appellant: Reagan Outdoor Advertising

Decision Making Entity: Zoning Administrator

Request: Appealing the City’s denial of a request to construct a new/replacement billboard at 1650 S State Street using billboard credits

Brief Prepared by: Samantha Slark, Senior City Attorney

On or about January 25, 2021, Reagan Outdoor Advertising (“Reagan”) was notified a permit to construct a new/replacement billboard using billboard credits would not issue because the proposed location is within 300 feet of a billboard located at Resolute Tattoo, 1626 S State Street (referred to hereinafter as “Resolute Tattoo billboard”). Reagan has appealed that determination.

FACTS

1. Salt Lake City Code § 21A.46.160 sets forth a system by which the City will issue “credits” if a billboard owner demolishes a billboard. *See generally* Salt Lake City Code § 21A.46.160.

2. Those “credits” may be used to construct a new or replacement billboard. *See* Salt Lake City Code § 21A.46.160.E, M & O.

3. The credits must be used within a certain period of time. *See* Salt Lake City Code § 21A.46.160.G.

4. The location of the new or replacement billboard must also comply with the rules governing where certain “credits” may be used and the ordinance’s spacing requirements. Salt Lake City Code § 21A.46.160.K, N-T.

5. Specifically, the ordinance states:

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 (800) feet from a large billboard on the same side of the street.

Salt Lake City Code § 21A.46.160.T.1.

6. In the summer of 2020, Reagan submitted an application with the City seeking a permit to demolish a billboard at 1729 S. State Street and a permit to construct a new or replacement billboard at 1650 S. State Street, using the “credits” it will receive from demolishing the 1729 S. State Street billboard.¹

7. The zoning administrator denied the application because the proposed billboard would be located “within approximately 125 feet of an existing billboard located along the west property line of the same parcel,” referred to hereafter as the “Arby’s billboard.”² Photos of the Arby’s billboard and the location of the proposed billboard are included in **Exhibit A**.

8. Reagan appealed that determination.³

9. Reagan argued the decision was incorrect because the Arby’s billboard is oriented to be viewed from 1700 South and the proposed new billboard is oriented to be viewed from State Street.⁴

10. The issue considered and resolved by the hearing officer was the proper construction of Salt Lake City Code § 21A.46.160T. Specifically, whether the phrase “on the same side of the street” means on the same geographic side of a street, *i.e.*, east or west of a particular street, or whether the phrase means “on the same side of the *same* street.”⁵

11. On December 10, 2020, the hearing officer issued an opinion finding Salt Lake City Code § 21A.46.160T should be understood to mean “on the same side of the *same* street.” Hearing Officer Decision, Dec. 10, 2020, **Exhibit C**.

12. This led to the hearing officer’s conclusion that the presence of the Arby’s billboard, oriented east/west on 1700 South did not preclude issue of the billboard permit and the City’s decision to deny the permit on those grounds was reversed. *Id.*

13. During the hearing, the City noted that the new proposed billboard is also within 300 feet of a billboard at Resolute Tattoo, 1626 S. State Street, which no one can dispute is on the same side of the same street and violates the spacing ordinance. Recording of Appeals Hearing, Nov. 12, 2020, min 21:30-22:30, 36:00-37:00 & 53:40-55:45, **Exhibit B**. *See also* Photos, **Exhibit A**, Distance Map, **Exhibit D**.

¹ *See* Appeal of Administrative Decision at Approximately 1650 S State Street (“Record), which can be found here: <https://www.slc.gov/planning/appeals-hearing-officer-meeting-records/2020-appeals-hearing-officer-records/>.

² *Id.*

³ *Id.*

⁴ *Id.* *See also* Recording of Appeal Hearing, Nov. 12, 2020, **Exhibit B**.

⁵ *Id.* *See also* Hearing Officer Decision, Dec. 10, 2020, **Exhibit C**.

14. The hearing officer stated that the issue was “off point” for that hearing, but that Reagan should note the City’s position was that the application would still need to be denied, even if Reagan prevailed and the decision was reversed. Recording of Appeals Hearing, Nov. 12, 2020, min 53:40-55:45, **Exhibit B**.

15. On or about January 25, 2020, Reagan was notified the permit would not issue because the proposed location is within 300 feet of the Resolute Tattoo billboard. *See* Notification of Denial, **Exhibit E**.

16. Reagan now appeals that decision.

I. THE RESOLUTE TATTOO BILLBOARD PRECLUDES ISSUE OF REAGAN’S BILLBOARD PERMIT.

Reagan contends the City’s denial of its request for a permit should be reversed for two reasons: (1) Reagan contends the City is precluded from denying the permit under the doctrine of res judicata, and (2) Reagan contends the spacing requirements of Salt Lake City Code § 21A.46.160T do not apply because (according to Reagan) the Resolute Tattoo billboard does not possess all required permits. Both contentions are incorrect.

A. Res Judicata Does Not Preclude the City From Denying Reagan’s Application.

Res judicata does not preclude the City from denying Reagan’s application to construct a billboard at 1650 S State Street because issues relating to the proximity of the Resolute Tattoo billboard were not resolved in the prior land use appeal. As an initial matter, the doctrine of res judicata only applies to administrative proceedings that are sufficiently judicial in nature.⁶ Where the formality of proceedings “is sufficiently diminished, the administrative decision may not be res judicata.”⁷ “The starting point in drawing the line is the observation that res judicata applies when what the agency does resembles what a trial court does.”⁸ No Utah case has found municipal land use appeal authorities created under Utah Code § 10-9a-701 *et seq.* are sufficiently formal for res judicata to apply. These bodies conduct informal procedures and the doctrine likely does not apply.

Second, the elements of claim preclusion and issue preclusion are also not met. With respect to claim preclusion, Reagan turns the doctrine on its head. “[C]laim preclusion corresponds to causes of action”⁹ and precludes a party from bringing a cause of action in a subsequent action that could and should have been brought in the first action.¹⁰ The City has not

⁶ *Kirk v. Div. of Occupational & Pro. Licensing, Dep’t of Com., State of Utah*, 815 P.2d 242, 243-44 (Utah Ct. App. 1991)

⁷ *Id.*

⁸ *Id.*

⁹ *Mack v. Utah State Dep’t of Com., Div. of Sec.*, 2009 UT 47, ¶ 29, 221 P.3d 194.

¹⁰ *Id.* ¶¶ 29-34 (precluding attempts by Division of Securities to bring a subsequent disciplinary action against an individual).

brought any cause of action against Reagan in this land use appeal or the prior. Consequently, the doctrine is wholly inapplicable.

With respect to issue preclusion, a fundamental element necessary to establish issue preclusion is that the issue was raised and resolved in the prior administrative proceeding.¹¹ The issue resolved in the prior land use appeal was whether the phrase “on the same side of the street” in Salt Lake City Code § 21A.46.160T means the same geographic side of a street, *i.e.*, east or west of any given street, or whether it means the same side of the *same* street. The hearing officer concluded the ordinance was intended to mean “the same side of the *same* street,” despite the absence of the additional word “same.” This resulted in a finding that the Arby’s billboard, which is located on the west side of State Street, but oriented east/west on 1700 South, did not preclude issue of the permit.

In stark contrast, this appeal concerns the Resolute Tattoo billboard. It indisputably is on the same side of the *same* street and is within 300 feet of the location of the proposed new billboard. This appeal concerns Reagan’s contention that the spacing requirements of Salt Lake City Code § 21A.46.160T do not apply because Reagan contends the Resolute Tattoo billboard does not have a UDOT or City permit. This issue was not addressed or decided in the prior land use appeal.

Rather, the City raised the proximity of the Resolute Tattoo billboard as an additional reason the application must be denied.¹² Reagan responded claiming the billboard was not permitted and “illegal.”¹³ The hearing officer stated he thought the discussion was “off point,” but that Reagan should note that the City’s position is that the application must still be denied even if the appeal is successful.¹⁴

Res judicata does not preclude the City’s denial of this application.

B. Reagan’s Claims of Illegality do not Preclude Application of Salt Lake City Code § 21A.46.160T.

Reagan’s claim that the Resolute Tattoo billboard does not have all required permits does not preclude application of the spacing requirements of Salt Lake City Code § 21A.46.160T. To start, the plain language of Salt Lake City Code precludes constructing two small billboards within 300 feet of each other. Nothing in the language of the statute makes this spacing requirement

¹¹ See *e.g. Snyder v. Murray City Corp.*, 2003 UT 13, ¶¶ 32-36, 73 P.3d 325 (finding claim and issue preclusion inapplicable “because neither the claims brought in this suit nor the issues involved were the subject of a final judgment on the merits.”); *SMP, Inc. v. Kirkman*, 843 P.2d 531, 532-34 (Utah Ct. App. 1992) (finding res judicata inapplicable because “it was readily apparent” that the subsequent claim was not identical to the claim adjudicated before the Industrial Commission); *Aragon v. Clover Club Foods Co.*, 857 P.2d 250, 255, n. 6 (Utah Ct. App. 1993) (finding issue preclusion inapplicable because the Industrial Commission did not decide the issue of whether the plaintiff was employed by the employer.)

¹² Recording of Appeals Hearing, min. 21:30-22:30, 36:00-37:00 & 53:40-55:45, **Exhibit B.**

¹³ *Id.*

¹⁴ *Id.* at min. 53:40-55:45.

contingent on and only applicable if both billboards possess all required permits. Indeed, this would give rise to an absurd result because it would allow clusters of unpermitted billboards, but not clusters of properly permitted billboards.

Second, Reagan's claim that the Resolute Tattoo billboard does not have a UDOT permit is irrelevant. UDOT permits are issued by the State. The City has no control over that application process or enforcement in the event of a failure by a billboard company to obtain such a permit.

Third, Reagan's claim that the Resolute Tattoo billboard does not hold a valid City permit appears to be incorrect. The Resolute Tattoo billboard is marked as billboard 165 on the City's Official Billboard Map. *See* Relevant Portion of City Official Billboard Map, **Exhibit F**. The City's public facing database also shows a sign permit was issued in 1991 for this location. *See* Accella Screen Shots, **Exhibit G**.

Reagan contends the City's response to its GRAMA request shows no City permit was issued, but that response simply directs Reagan to its public facing database, notes its 7-year retention policy for certain documents, and informs Reagan that certain of the documents requested by Reagan contain proprietary information, which cannot be produced under GRAMA even if the 7-year retention policy had not run.

Enforcement of the spacing requirement is not precluded by Reagan's claims that the Resolute Tattoo billboard is not in possession of all required permits and Reagan's appeal should be denied.

Exhibit A

Photos

US-89

Salt Lake City, Utah



Google



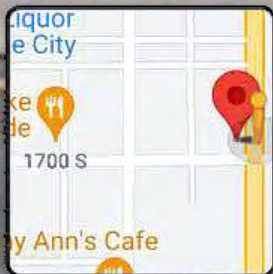
Street View



QUALITY BILLIARDS

POWERSPORTS

RESCUE TATTOO



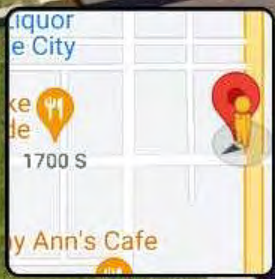
Google



Salt Lake City, Utah



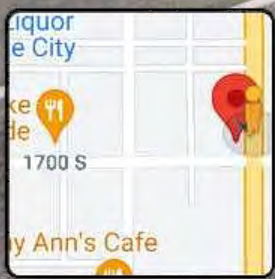
Street View



Google



US-89
Salt Lake City, Utah
Google
Street View



Google

Exhibit B

Recording of Nov. 12, 2020 Appeals Hearing

<https://youtu.be/WwmGkipyG9A>

Exhibit C

Hearing Officer Decision

Dec. 10, 2020

Salt Lake City Land Use Appeals Hearing Officer
PLNAPP2020-00569
Appeal from Administrative Decision
1650 S State Street – Reagan Outdoor Advertising
December 10, 2020

This is an appeal from an administrative decision to deny a request by Reagan Outdoor Advertising (ROA) to construct a billboard on the property located at approximately 1650 S. State Street. The denial of the building permit BLD2020-02188 was based on the distance requirement from another billboard. The appellant claims that the interpretation of the requirement is incorrect. The appeal is granted as explained below.

RECORD

The record includes the Staff Report, a document of 23 pages dated November 12, 2020, an undated “revised appeal” filed by ROA; an appeal brief filed by the City Attorney dated November 5, 2020; supplemental briefing by the City Attorney dated November 25, 2020; an email response from the attorney for ROA filed November 29, 2020. The record also includes several exhibits which were attached to the briefing or provided separately including those entitled: 1739 S State Street (screen shots); 1999 Aerial; Building Permits Report (1360 S. Redwood Road); Distance from Tattoo Sign; Documents related to Demolition Application; May 2002 Google Earth Image; Property owner communication; Screen Shots (1651 S State Street); and Sign Rendering (1650 S State Street). On November 18, 2020 counsel for ROA also provided three more exhibits, Pioneer Road Permit; Pioneer Rd-SitePlan; and California Road Permit. Also included in the record is a recording of the Webex electronic hearing held on November 12, 2020.

BACKGROUND

This matter involves the interpretation and application of language in the Salt Lake City Code at Section 21A.46.160 which provides:

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.

It is agreed that this section of the code applies to the location of a replacement small billboard for which ROA submitted a building permit application. The City denied the application, stating that the proposed location of the billboard does not comply with this provision of the code. ROA argues that the proposed location does comply because the words “same side of the street” do not apply to the other billboard within 300 feet that is the basis of the City’s decision to deny – that the other billboard is not on the “same side of the street”.

The new replacement billboard is proposed to be located on and oriented to State Street. Although the other billboard is indeed located within 300 feet of the proposed new billboard, the other billboard is

oriented to another street which runs perpendicular to State Street. Since the other billboard is not located on the same side *of the same street*, argues ROA, its location should not affect the opportunity to install a new billboard on State Street, which is a different street.

ANALYSIS

ROA argues here that there are three examples of billboard permits where the city code was interpreted by the City to allow billboards closer than the distance involved in the instant case when the billboards are oriented to different streets. The City basically agrees in general terms but argues that one of the examples ROA cites was before a change in the relevant text in the ordinance and that previous interpretations and applications of the ordinance language are not to be given any deference here.

This appears to boil down to how one interprets the ordinance. The City argues that on appeal, there is to be no deference to any previous interpretation of the code by the City. It points out that a court would review the interpretation of the code for correctness only, citing *Outfront Media LLC v. Salt Lake City Corp.*, 2017 UT 74, 416 P.3d 389:

In the past, we “afford[ed] some level of non-binding deference to” a local agency’s interpretation of its own ordinance. *Carrier v. Salt Lake Cty.*, 2004 UT 98, ¶ 28, 104 P.3d 1208. But this deference cannot stand in view of subsequent developments in our precedent. Our cases since *Carrier* have expressly rejected the notion of affording Chevron-style deference to state agencies’ interpretation of statutes, see *Hughes Gen. Contractors, Inc. v. Utah Labor Comm’n*, 2014 UT 3, ¶ 25, 322 P.3d 712, or regulations, see *Ellis-Hall Consultants v. Pub. Serv. Comm’n*, 2016 UT 34, ¶ 21, 379 P.3d 1270. Given that we do not defer to state agencies on pure questions of law, there is even less reason to defer to local agencies’ interpretations of ordinances, given that those local agencies “do not possess the same degree of professional and technical expertise as their state agency counterparts.” *Carrier*, 2004 UT 98, ¶ 28, 104 P.3d 1208. In keeping with our recent decisions, we review the interpretation of ordinances for correctness.

That said, we are left to determine what the “correct” interpretation of the code is. In a recent restatement, the Utah Supreme Court outlined how we are to interpret the language of a statute:

- “ . . . It is well settled that when faced with a question of statutory interpretation:
1. Our primary goal is to evince the true intent and purpose of the Legislature.
 2. The best evidence of the legislature’s intent is the plain language of the statute itself.
 3. We presume that the legislature was deliberate in its choice of words and used each term advisedly and in accordance with its ordinary meaning.
 4. Where a statute’s language is unambiguous and provides a workable result, we need not resort to other interpretive tools, and our analysis ends.
 5. However, our plain language analysis is not so limited that we only inquire into individual words and subsections in isolation;
 6. Our interpretation of a statute requires that each part or section be construed in connection with every other part or section so as to produce a harmonious whole.

7. When interpreting statutory text, we presume that the expression of one term should be interpreted as the exclusion of another,
8. We will not infer substantive terms into the text that are not already there.
9. We assume, absent a contrary indication, that the legislature used each term advisedly and
10. [We] seek to give effect to omissions in statutory language by presuming all omissions to be purposeful.”

2 *Ton Plumbing LLC v. Thorgaard*, 2015 UT 29; 345 P.3rd 675, ¶¶ 31-32. (The exact text of the decision by the Supreme Court is here slightly paraphrased, as shown. The entire citation has been reformatted by numbering each sentence in the two paragraphs for easier reference. Quotation marks and citations to other cases have been omitted.)

ROA cites additional language from a series of Court of Appeals cases with particular regard to the interpretation of zoning ordinances, first stated by the Court in *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (Utah Ct. App. 1995). This citation is found most recently in *Ferre v. Salt Lake City*, 2019 UT App 94, ¶17:

In applying this statutory scheme, we are mindful of Utah’s long-standing principle that “because zoning ordinances are in derogation of a property owner’s common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner.” *Patterson*, 893 P.2d at 606. Because [the zoning ordinance] allows a property owner to seek an exception to otherwise applicable land use restrictions, we must “liberally construe” the chapter “in favor of the property owner” seeking a special exception.

So we are to interpret the code to “evinced the true intent and purpose of the Legislature”, or the Salt Lake City Council in this instance, while liberally construing it in favor of the property owner. The billboard ordinance includes a purpose statement:

Purpose Statement: This section 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.

Salt Lake City Code at Section 21A.46.160.A. This statement describes at least two goals: To limit the maximum number of billboards to the current number as well as to provide “reasonable” processes and methods to relocate nonconforming billboards. It is to be noted that the proposed billboard is a replacement and does not increase the total number of billboards in the City. The purpose to limit the number of billboards is thus fulfilled even if the proposed location is allowed. The other purpose of fostering “reasonable processes and methods” to relocate billboards is at issue here.

To restate the relevant section of the code with which we are concerned:

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*.

It is undisputed that the code prohibits new billboards within certain distance of another existing large billboard unless the existing large billboard is not on the same side of the street. In other words, if the existing large billboard is on the other side of the street.

It is clear that the large billboard at issue here is not on the other side of the street – which would be the East side of State Street in this instance. The large billboard close to the proposed billboard location is West of State Street, not East. But that other billboard is not oriented to “the” street that the new billboard is to be oriented to – State Street.

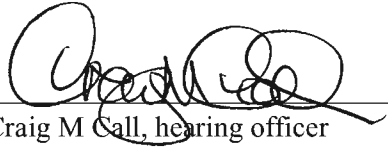
So ROA asks that the code be interpreted to provide two exceptions to the distance requirements: 1) for billboards on the other side of the street and 2) for billboards that are oriented to a different direction on a different street than “the street” where the proposed billboard is to be located. This interpretation of the existing text appears to have been applied by the City staff on at least two occasions, according to the exhibits, since the existing text was adopted. While the City’s previous interpretations are not to be given any deference, the former interpretation by the City does illustrate that the interpretation advanced by ROA is a credible one and positions this interpretation within the realm between a strict and a liberal interpretation. Reasonable minds could differ on what is intended by the plain language “the same side of ‘the’ street”.

We are directed by the Court to interpret the code liberally in favor of the property owner. The adopted language can be liberally but not unreasonably interpreted to imply that when it refers to “the” street it refers to one street and the orientation of a billboard to the traffic on that one street. That is probably what would be understood by the wording of the code in everyday conversation – that on the same side of the street means on the same side of “the” particular street where there would be a logical concern about someone traveling along the street being subjected to too many interruptions to the city’s “gateways, views, vistas and related urban design elements”. The interpretation here may be liberal but it is not unreasonable – witness the same interpretation by City staff in past years.

This interpretation also advances the purpose of the ordinance calling for “reasonable” regulations, knowing that any billboard installed in a new location is to be relocated from a prior location where it also may have interfered with public vistas. It would appear that granting the appeal advances both of the cited purposes of the billboard ordinance – it has not increased the allowed number of billboards and it imposes reasonable regulations. The City remains vested with the right to amend and clarify the code, just as it could have done at any time since the code was allegedly incorrectly interpreted ten or eleven years ago.

The Administrative Decision is reversed. The appeal is granted.

Dated this 10th day of December, 2020.



Craig M Call, hearing officer

Exhibit D

Distance Map

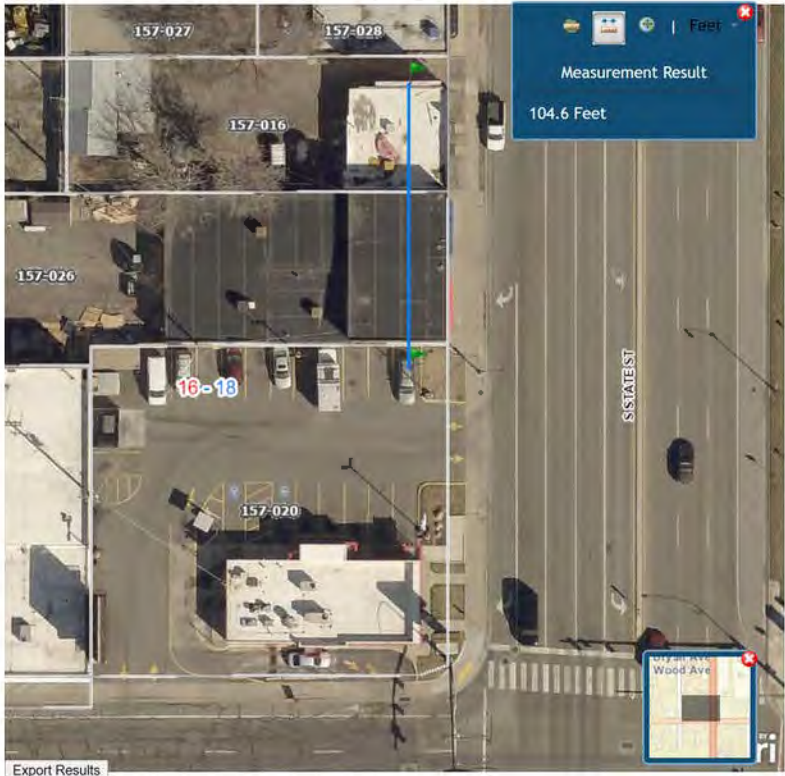


Exhibit E

Notification of Denial

From: Michelsen, Alan <Alan.Michelsen@slcgov.com>
Sent: Monday, January 25, 2021 3:52 PM
To: Victoria Lara <Victoria@reaganusa.com>
Cc: Paterson, Joel <joel.paterson@slcgov.com>
Subject: RE: (EXTERNAL) BLD2020-02188

Hi Victoria, Sorry for the delayed response.

After reading the previous decision by the Appeals Hearing Officer (PLNAPP2020-00569) I concluded that the record of decision only made a determination of spacing for the billboard located at 1650 South State Street that is oriented towards 1700 South. The proposed Arby's billboard is also located closer than 300 feet to another billboard (billboard--City I.D. #165) located at 1626 S. State Street and therefore your application still does not comply with the minimum 300 feet spacing as per 21A.46.160.T. Appeal of this decision is through the Zoning Administrator and the SLC Planning Division.

ALAN R. MICHELSEN
Senior Development Review Planner

**BUILDING SERVICES DIVISION
DEPARTMENT OF COMMUNITY AND NEIGHBORHOODS
SALT LAKE CITY CORPORATION**

Telephone: 385-261-6648

www.SLC.GOV.COM

Disclaimer: The Building Services Division strives to provide the best customer service possible and to respond to questions as accurately as possible based upon the information provided. However, answers given prior to building permit approval are not binding and cannot be used to approve, construction in violation of State and Municipal Codes. Preliminary written or verbal feedback is not a substitute for an approved building permit.

Task Planning	Due Date 01/26/2021	Assigned Date 01/26/2021
Assigned to Department Planner	Assigned to Amy Thompson	Status Corrections Required
Action by Department Planner	Action By Amy Thompson	Status Date 01/26/2021
Start Time	End Time	Hours Spent 0.0
Billable No	Overtime No	Comments 1) The previous Appeals Hearing Officer Decision (PLNAPP2020-00569) only addressed the billboard located on the 1650 South State Street parcel that is oriented towards 1700 South. However, the proposed billboard is also located closer than 300 feet to (billboard—City I.D. #165) located at 1626 S. State Street does not comply with the minimum 300 feet spacing as per 21A.46.160.T. Appeal of this decision is through the Zoning Administrator and the SLC Planning Division. Any appeal must be submitted by 5:00 pm on 2/5/2021.
Time Tracking Start Date	Est. Completion Date	In Possession Time (hrs)
Display E-mail Address in ACA No	<input checked="" type="checkbox"/> Display Comment in ACA	Comment Display in ACA <input checked="" type="checkbox"/> All ACA Users <input checked="" type="checkbox"/> Record Creator <input checked="" type="checkbox"/> Licensed Professional <input checked="" type="checkbox"/> Contact <input checked="" type="checkbox"/> Owner
Estimated Hours 0.0	Action Updated	Workflow Calendar

Exhibit F

Relevant Portion of City Official Billboard Map



County Address	City Parcel ID	City Address	City ID#	City ID#	Boards on Property	Board Owner	Owner's ID#	Faces	notes	Corrected Address?	Rogue Board?	Photo
16181570160000	1626 S State	165	165.0	1	No Label			2	April 2012-Fixed address, same parcel ID.	n	Y	Photos/165a.jpg
16191010030000	19 E 2100 S	166	166.0	1	Reagan	151,152,153,154		4		n	Y	Photos/166a.jpg
15133260030000	425 W 1700 S	167	167.0	1	YESCO	11022S/N		2		n	Y	Photos/167a.jpg
16171820050000	1720 S 900 E	168	168.0	1	Reagan	0513		1	Demo BLD2012-08182	n	Y	Photos/168a.jpg
16173260110000	1722 S 900 E	169	169.0	1	Reagan	0553/U0556		1	Demo BLD2012-08184	n	Y	Photos/169a.jpg

Exhibit G

Accella Screen Shots

BLD1991-64143 - Building

Menu ▾

Reports ▾

Help

Go To ▾

Summary

Permit

Comments (0)

Contacts (0)

Documents (0)

Fee (0)

Inspections (1)

Parcel (0)

Related Records

Workflow

Permit Detail: [Detail](#)Permit Type: [Sign](#)Address: [1626 S STATE ST, Salt Lake City, UT](#)Owner Name: [M & M BROGI](#)

Owner Address:

Permit Name: [Building](#)

Description of Work:

Permit Comments: [View ID](#)[Comment](#)[Date](#)Permit Status: [Inactive](#)Permit Open Date: [11/19/1991](#)

Permit Detail: BLD SIGN

Proposed Square footage of each sign

Height of proposed sign

Assigned Inspector

-

-

-

Proposed Square Footage - Sign Type

-

Projection over city property?

Is sign to be illuminated?

Use Type

-

-

-

Use Type (Sign)

Signature

-

-

Permit Details/Comments

[SIGN-FLAT, 228 SQFT, \\$3000 VALUE](#)

State Permit Number

Suite # **Project Dox**

-

-

citizenportal.slcgov.com/Citizen/Cap/CapHome.aspx?module=Building&TabName=Building

Street Number: 1626 To: 10 Direction: S Name: state Street: --Select-- Zip:

Parcel Number:

Search Additional Criteria

Search Clear

Record results matching your search results: 5
any of the results below to view more details.

Showing 1-5 of 5

	Date	Record Number	Record Type	Description	Project Name	Address	Status	Action	Short Notes
<input type="checkbox"/>	11/19/1991	BLD1991-64143	Building/Sign/NA/NA		Building	1626 S STATE ST, Salt Lake City UT United States	Inactive		
<input type="checkbox"/>	03/08/1991	BLD1991-57343	Building/Permit/Residential/NA		Building	1626 S STATE ST, Salt Lake City UT United States	Inactive		
<input type="checkbox"/>	02/19/1991	BLD1991-56987	Building/Electrical/Commercial/NA		Building	1626 S STATE ST, Salt Lake City UT United States	Inactive		
<input type="checkbox"/>	02/14/1991	BLD1991-56928	Building/Plumbing/Commercial/NA		Building	1626 S STATE ST, Salt Lake City UT United States	Inactive		
<input type="checkbox"/>	03/27/1985	BLD1985-36855	Building/Electrical/Commercial/NA		Building	1626 S STATE ST, Salt Lake City UT United States	Inactive		

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Check/Research Permits Schedule an Inspection

Record BLD1991-64143:
Sign
Record Status: Inactive

Record Info Payments

Work Location

1626 S STATE
Salt Lake City

Record Details

Licensed Professional: R M BROGLI AA CONV UNKNOWN 10-CONV-0321181	Project Description: Building	Owner: R M BROGLI
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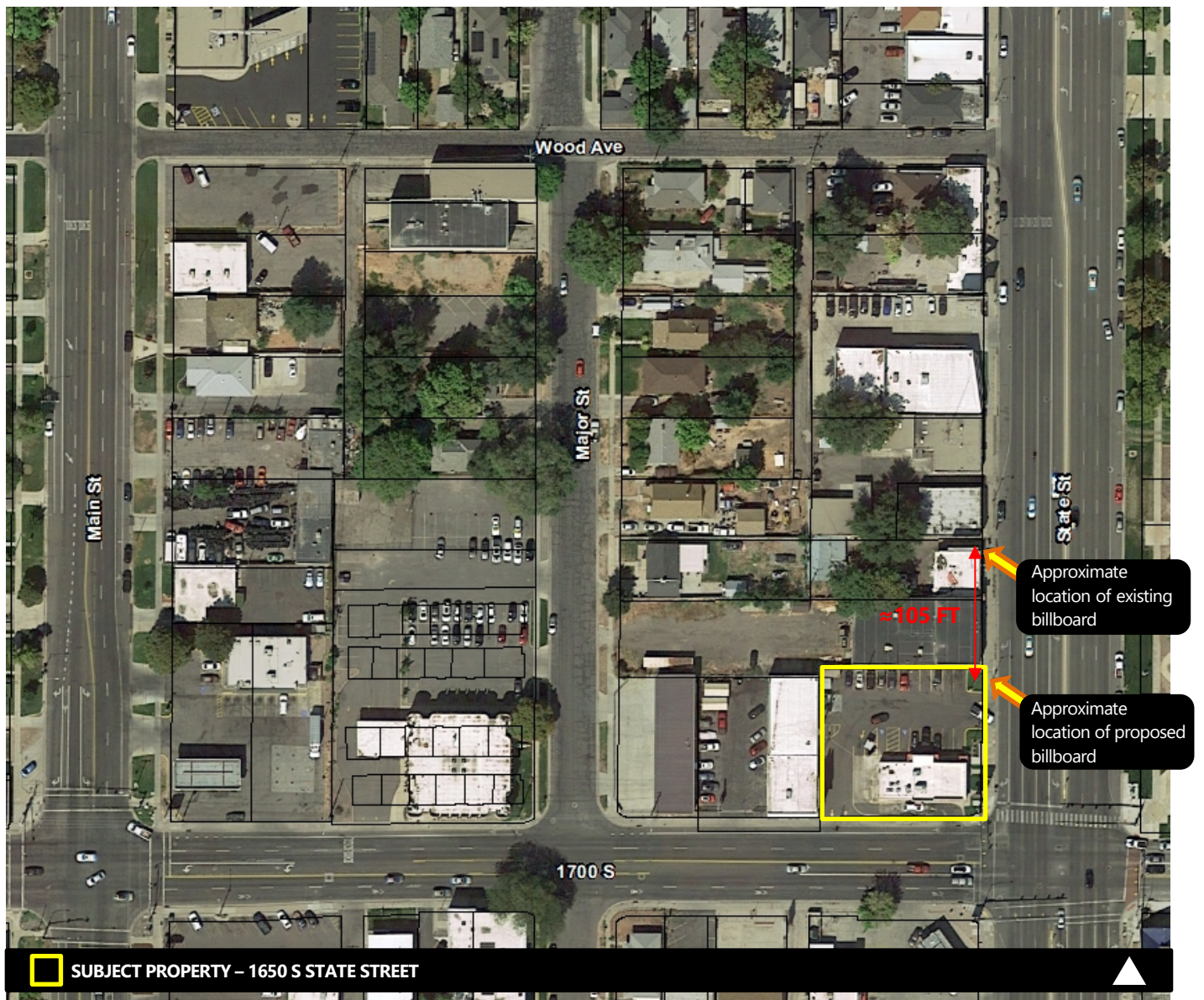
View Additional Licensed Professionals>>

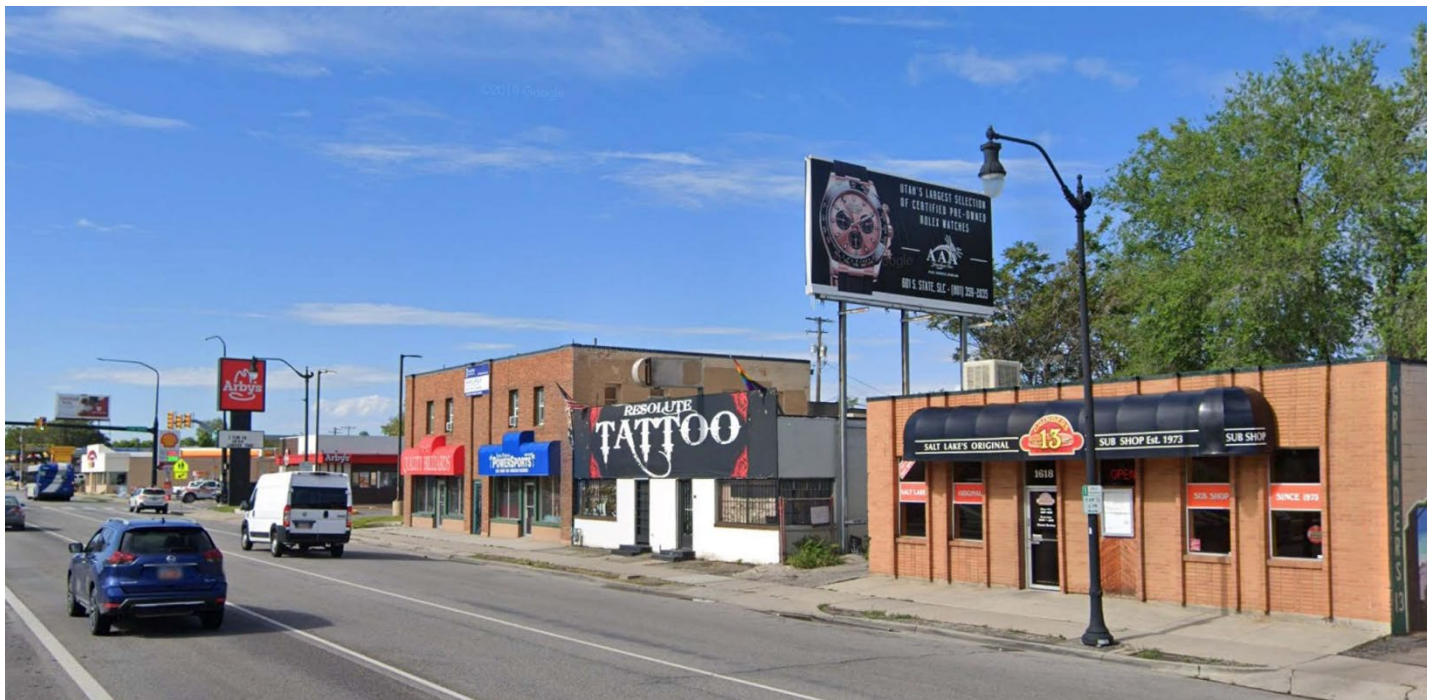
More Details

Application Information

SIGN PERMIT

ATTACHMENT C: PHOTOS AND MAPS





View of existing billboard located at approximately 1626 S State Street



Rendering of proposed billboard at approximately 1650 S State Street submitted with building permit application (BLD2020-02188)

ATTACHMENT D: PUBLIC COMMENTS

As of the publication of the staff report, staff has received 7 public comments in opposition of the appeal. Public comments are included on the following pages of this attachment.

From: [Thompson, Amy](#)
To: [Thompson, Amy](#)
Subject: FW: (EXTERNAL) Public comment for Reagan appeal
Date: Wednesday, April 28, 2021 4:58:49 PM

-----Original Message-----

From: [REDACTED] >
Sent: Wednesday, April 28, 2021 4:55 PM
To: Gilmore, Kristina <Kristina.Gilmore@slcgov.com>
Subject: (EXTERNAL) Public comment for Reagan appeal

Hello Kristina. Please include my comment below into the appeal by Reagan.

Salt Lake City residents know Reagan billboards flourish in our city only through the paying off of elected officials through campaign donations. Elected officials in Salt Lake City are beholden to Reagan to fund their re-elections, and so they vote in favor of more distracting and dangerous eyesores on our streets. Residents aren't asking for this and don't want it. Through your support for Reagan, you show who you serve and where your allegiances lie. Do you serve citizens or special interests?

Charles Latner
Salt Lake City 84111

From: [Thompson, Amy](#)
To: [Thompson, Amy](#)
Subject: FW: (EXTERNAL) Reagan State St. Billboard
Date: Wednesday, April 28, 2021 12:26:40 PM

-----Original Message-----

From: Noah [REDACTED] >
Sent: Wednesday, April 28, 2021 12:22 PM
To: Gilmore, Kristina <Kristina.Gilmore@slcgov.com>
Subject: (EXTERNAL) Reagan State St. Billboard

Hello,

I would like to voice my strong opposition to any new billboards in the downtown and otherwise.

Thanks,
Noah Flint

From: [Thompson, Amy](#)
To: [Thompson, Amy](#)
Subject: FW: (EXTERNAL) Billboards
Date: Wednesday, April 28, 2021 4:18:33 PM

From: cassidie archuleta <[REDACTED]>
Sent: Wednesday, April 28, 2021 4:11 PM
To: Gilmore, Kristina <Kristina.Gilmore@slcgov.com>
Subject: (EXTERNAL) Billboards

To whom it may concern,

I was born and raised in Utah. We have a beautiful state. People travel from all around the world to visit Utah, whether it be for sundance film festival, the Olympic slopes, or the outdoor summer concerts and trails.

I have visited many other places. Another place I visited was Hawaii. I don't have to explain the state's beauty, even people who haven't been, know it is beautiful. There was a marked difference between Hawaii's beauty and Utah's. I know you're thinking Hawaii has beaches and is tropical, Utah has mountains and red rocks, but that isn't the marked difference. It's the billboards. Hawaii does not allow billboards. You can see Hawaii's beauty from all around.

Utah by comparison looks messy and congested. Rather than seeing our beautiful vistas, we see billboards. Amazingly it was the first thing I noticed about Hawaii, amidst all the beauty, I noticed the lack of billboards and how much that added to the essence of Hawaii.

We welcome the world in Utah, let's do that by taking down billboards to enable the view of our scenery. If you have any further questions you can reach me via email or phone. [REDACTED]

[REDACTED]

Cassidie Archuleta

From: [Thompson, Amy](#)
To: [Thompson, Amy](#)
Subject: FW: (EXTERNAL) No Billboards Please
Date: Thursday, April 29, 2021 8:14:09 AM

From: Sean <[REDACTED]>
Sent: Wednesday, April 28, 2021 7:58 PM
To: Gilmore, Kristina <Kristina.Gilmore@slcgov.com>
Subject: (EXTERNAL) No Billboards Please

Billboards are a blight on our beautiful landscape. They provide minimal direct economic benefit to the local community. They are a distraction to drivers. We are bombarded by advertising all day, in all mediums. In this age we need to take back and preserve whatever pristine, ad-free environments we can find. Please take any action necessary to fight the proliferation of billboards in utah.

Sincerely,
Sean Pascoe

From: [Thompson, Amy](#)
To: [Thompson, Amy](#)
Subject: FW: (EXTERNAL) May 13th Appeal of Administrative Decision at approximately 1650 S State
Date: Wednesday, April 28, 2021 12:15:45 PM

From: Lance Hemmert [REDACTED] >
Sent: Wednesday, April 28, 2021 12:05 PM
To: Gilmore, Kristina <Kristina.Gilmore@slcgov.com>
Subject: (EXTERNAL) May 13th Appeal of Administrative Decision at approximately 1650 S State

Would you be kind enough to add my comment for the meeting so the Hearing Officer can take into account at least one SLC'er's opinion on billboards?

Comment follows:

Please. For the love of God. No more billboards. We're inundated with ads and commercials in this world. I feel like I'm being wrecked with the constant, unrelenting bleating of advertising. Please save as much of our visual space and our sight lines as you can from these people who'd implant billboards into our brains if they could. No more. We have to draw a line. We have to take a stand. The line is here. Right now. No more. They're a cultural cancer. If I had my way I'd excise them all from our fair city.

--

Lance V. Hemmert

[REDACTED]
[REDACTED]
[REDACTED]

From: [REDACTED]
To: [Thompson, Amy](#)
Subject: (EXTERNAL) Re: Appeal of Administrative Decision at approximately 1650 S State -
Date: Wednesday, April 28, 2021 1:27:17 PM

"The denial of the building permit is based on the spacing requirements in 21A.46.160.T. The property is zoned CC (Commercial Corridor),"

I applaud the denial and perhaps space was a technicality and if so good. We are trying to beautify the entrance to SLC on State street and billboards do anything but enhance the impression along with car lots, tatoos and pawn shops.

I am so embarrassed at the I-80 approach beginning before Tooele which is solid boards totally detracting from the view of the Wasath Mountains which are so magnificent and impressive.

Please continue the denial.

Suzanne S. Stensaas

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: [Thompson, Amy](#)
To: [Thompson, Amy](#)
Subject: FW: (EXTERNAL) Opposition to 1650 S State street variance May 13th Hearing
Date: Thursday, April 29, 2021 8:50:34 AM
Attachments: [image001.png](#)
[image002.png](#)

From: Jason Terry <[REDACTED]>
Sent: Thursday, April 29, 2021 8:40 AM
To: Gilmore, Kristina <Kristina.Gilmore@slcgov.com>
Subject: (EXTERNAL) Opposition to 1650 S State street variance May 13th Hearing

I just wanted to take a moment to express my belief that the appeal from Reagan Outdoor Advertising should not be granted. State street does not need any more billboards especially one that don't meet the already loose rules being enforced. Billboards are obnoxious, distracting and at times even dangerous as they pull attention away from the road and cause safety issues for both drivers and pedestrians. Reagan has hundreds if not thousands of billboards in our state and many of those were allowed with exceptions to the current laws and regulations. I firmly believe the city should not granted an exception to the current rules and regulations being enforced correctly by our city.

I wanted to attend the hearing to voice my opposition but due to COVID am unable to. If you might be able to include my comments to the public comments/record for this matter it would be greatly appreciated.

Thank you,

Jason Terry
Systems Engineer | Teleperformance | T (801) 366-1708 | M (801) 209-7603 | SLC, UT USA |
Jason.Terry@teleperformance.com



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