

November 1, 2023

VIA EMAIL (planningclerk@co.humboldt.ca.us)

ORIGINAL BY FIRST CLASS MAIL

Humboldt County Planning Commission
c/o Kathy Hayes, Clerk of the board
825 5th Street, Room 111
Eureka, CA 95501

Re: *Proposed Sign Ordinance Related to Section 87.3 of Chapter 3 and Section 87.2 of Chapter 4 of Division 1 of Title III of Humboldt County Code*

Dear Honorable Chair and Members of the Planning Commission,

This office represents Lamar Central Outdoor, LLC (“Lamar”) with respect to the billboards located in the County of Humboldt (“County”). Lamar is a national outdoor advertising company that was founded in 1902. Lamar provides outdoor advertising opportunities on billboards (including both static and digital billboards) with over 200 plants throughout the country. Lamar currently owns and operates three billboards within the County’s jurisdiction.

Lamar is presenting this letter to provide feedback and objections on the Proposed Sign Ordinance amending Section 87.3 of Chapter 3 and Section 87.2 of Chapter 4 of Division 1 of Title III of Humboldt County Code (“Proposed Ordinance”), which will be considered at a public hearing on November 2, 2023. We recognize that there is similar language in both Section 87.2 and 87.3, but will only address one section, as to not duplicate efforts. That said, to the extent that there is similar or duplicative language in both sections, the feedback or objections applies to both sections.

Section 87.2.7 of the Proposed Ordinance appears to run afoul of Business and Professions Codes 5412 et seq., which allows nonconforming billboards to remain in place.

State law recognizes the legal nonconforming use status of billboards and requires local agencies to honor such amortization periods of legal nonconforming billboards. State law further distinguishes the method of amortizing nonconforming billboards. Although proposed Section 87.2.7.7 attempts to recognize such amortization periods, it gravely falls short of the requirements and distinctions required by State law. The Proposed Ordinance 1) does not distinguish billboards located in different zones, as so contemplated in B&P Sections 5412 through 5412.4. Instead, the Proposed Ordinance blanketly applies a general and arbitrary amortization period to existing and legal billboards. Further, of note, proposed Section 87.2.7.1 is vague, ambiguous and illogical. Section 87.2.7.1 appears to be an attempt to define an “existing billboard” but is non-sensical as written.

The Proposed Ordinance favors forced removal of billboards, which such forced removal violates State law and is considered an unlawful taking.

In addition to requiring a proper amortization period, State law requires agencies who force removal of billboards to pay just compensation for the taking of private property. (Business and Professions Code Section 5412 et seq.) Again, the Proposed Ordinance does not provide any proper mechanism or statutory scheme to allow legal nonconforming billboards, and further does not mention that forced removal requires the payment of just compensation. In particular, existing billboards located within the County must be considered legal nonconforming uses; if not, such removal is considered a taking. Lamar is vehemently against the proposed language Section 87.2.7.7, as it places a woefully undervalue of Lamar's billboards. Adoption and enforcement of the Proposed Ordinance would merely reallocate highly valued property to lower valued use, seizing Lamar's property and business.

Under circumstances forcing the removal of a billboard, the County must in fact pay just compensation, not only to the billboard owner, but also to the underlying landowner who receives lease revenue for the billboard. Based on the readily recognized income method of valuation, Lamar's billboards in the County are valued in the hundreds of thousands of dollars. An arbitrary amortization scheme for sign removal has nothing to do with the fair market value nor does it constitute just compensation.

The Proposed Ordinance prohibits the general maintenance of billboards, violating California Code of Regulations Section 2270 and encouraging public nuisances.

Section 2270 of Title 4 of the California Code of Regulations allows for the customary maintenance of existing billboards for the duration of their normal life. Customary maintenance includes several items, including changing the advertising message, adding an extension to an outside dimension of a display as incident to the copy for a temporary period of three years, and adding a light box. The Proposed Ordinance runs afoul of this regulation and instead attempts to outlaw the maintenance of a billboard, except in situations requiring a Zoning Clearance Certificate. Nowhere in the Proposed Ordinance does it provide what is needed to obtain a Zoning Clearance Certificate, nor does it provide that the maintenance of billboards may occur without a Zoning Clearance Certificate so long as the maintenance falls within the regulations of State law.

Instead, the Proposed Ordinance seems to discourage routine maintenance and encourage dilapidation and the creation of nuisances.

Conclusion

Lamar encourages the denial of the Proposed Ordinance on the basis that it violates State law and public policy. Such a Proposed Ordinance would further harm the County's competitive and thriving business community by thwarting advertising options. Advertising on billboards has been proven to be a cost-effective means to encourage business. Any effort by the County to stop such advertising would make it more difficult for local businesses to

thrive. Billboards fulfill part of the overall economic success of a business and should remain in the County with reasonable regulations. It would further run afoul of the policy of the State of California, which is to “encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without the expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication.” Cal. B&P Codes section 5412.

Lamar has been a long-standing business in the community for decades and continues to invest in the County. Lamar prides itself on being a good neighbor and a long-time stakeholder in the community. That said, just like with any business, the County cannot legally “take” Lamar’s property and business without just compensation. Efforts by the County to remove legal nonconforming signs without proper payment will result in the County exposing itself to a claim for inverse condemnation which, in addition to entitling the owners of the property to just compensation, will also expose the County to payment of the owners’ attorney’s fees under Cal. Civ. Proc. Code section 1036.

Accordingly, Lamar would ask the County to deny the Proposed Ordinance, and instead work with Lamar to upgrade its billboards and beautify the County.

Very truly yours,



Theodore K. Stream, of
STREAM KIM HICKS
WRAGE & ALFARO, PC

TKS:jm

cc: Client

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