



Legislation Text

File #: 19-698, **Version:** 1

Ordinance approving a Development Agreement to allow for the conversion of an existing 114 foot tall, double faced, static billboard to a double faced, digital billboard on property located at 150 Airport.

WHEREAS, Action Signs ("Applicant") owns or has a legal equitable interest in a property located at 150 Airport Boulevard ("Property"); and,

WHEREAS, Applicant has submitted a development proposal to construct, operate and maintain an off-premise digital message center display ("Digital Billboard") at the Property ("Project"); and,

WHEREAS, in order to construct and operate the Project, Applicant seeks approval of a Relocation Agreement, and Sign Permit; and,

WHEREAS, as part of its application, the Applicant has sought approval of a Development Agreement, which would clarify and obligate several project features and mitigation measures, including payment of existing fees (such as customary permit fees), and certain future fees (including any applicable gross receipts business license tax in the event the City enacts such a tax); and,

WHEREAS, approval of the Applicant's proposal is considered a "project" for purposes of the California Environmental Quality Act, Pub. Resources Code § 21000, et seq. ("CEQA"); and,

WHEREAS, the City Council adopted an Initial Study / Mitigated Negative Declaration ("IS/MND") on August 26, 2015 (State Clearinghouse number 2013062062) in accordance with the provision of CEQA and CEQA Guidelines, which analyzed the potential environmental impacts of billboards along the west side of U.S. Highway 101; and,

WHEREAS, on June 14, 2017, the City Council determined that the modifications to the sign height, increasing the height to a total of 114 feet above grade, were minor in nature, the approval of which would not result in any new significant environmental effects or a substantial increase in the severity of any previously identified effects beyond those disclosed and analyzed in the IS/MND adopted by the City Council, nor would it require additional environmental review; and,

WHEREAS, the modifications to the sign to convert from a static billboard to a digital billboard contemplated in the Project continues to be minor in nature, the approval of which would not result in any new significant environmental effects or a substantial increase in the severity of any previously identified effects beyond those disclosed and analyzed in the IS/MND adopted by the City Council, nor would it require additional environmental review; and,

WHEREAS, on August 1, 2019 the Planning Commission for the City of South San Francisco held a properly noticed public hearing, at which time interested parties had the opportunity to be heard, to review the Project, as well as supporting documents, at the conclusion of which the Planning Commission recommended that the City Council find that the 2015 IS/MND is the appropriate environmental document and approve the Project,

including the Development Agreement; and,

WHEREAS, the City Council held a duly noticed public hearing on September 25, 2019 to consider the 2015 IS/MND, Development Agreement, Relocation Agreement and Sign Permit and take public testimony; and,

WHEREAS, by separate Resolution, the City Council reviewed and carefully considered the information in the 2015 IS/MND and finds that the 2015 IS/MND is the appropriate environmental document.

NOW, THEREFORE, the City Council of the City of South San Francisco does hereby ordain as follows:

SECTION 1. Findings.

That based on the entirety of the record before it, which includes without limitation, the California Environmental Quality Act, Public Resources Code §21000, et seq. ("CEQA") and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the South San Francisco General Plan and General Plan EIR; the South San Francisco Municipal Code; the Project applications; the Project Plans, as prepared by Thompson Engineering Services, dated September 17, 2018; the "Assessment of the 178-190 Airport Blvd Billboard Project Under the IS/MND for 101 Terminal Court Clear Channel Billboard Project and Related Zoning Amendment" Technical Memorandum, as prepared by Lamphier-Gregory dated June 1, 2017, including all appendices thereto; all site plans, and all reports, minutes, and public testimony submitted as part of the Planning Commission's duly noticed August 1, 2019 meeting, and Planning Commission deliberations; all site plans, and all reports, minutes, and public testimony submitted as part of the City Council's duly noticed September 25, 2019 meeting, and City Council deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the City Council of the City of South San Francisco hereby finds as follows:

- A. The foregoing recitals are true and correct and made a part of this Ordinance.
- B. The proposed Development Agreement (attached as Exhibit A) is incorporated by reference and made a part of this Ordinance, as if set forth fully herein.
- C. The documents and other material constituting the record for these proceedings are located at the Planning Division for the City of South San Francisco, 315 Maple Avenue, South San Francisco, CA 94080, and in the custody of the Planning Manager.
- D. The Owner and City have negotiated a Development Agreement pursuant to Government Code section 65864 et seq. The Development Agreement, attached hereto as Exhibit A, sets for the duration, property, project criteria, and other required information identified in Government Code section 65865.2. Based on the findings in support of the Project, the City Council finds that the Development Agreement, vesting a project for a new digital billboard, is consistent with the objectives, policies, general land uses and programs specified in the South San Francisco General Plan and any applicable zoning regulations.
- E. The City Council has independently reviewed the proposed Development Agreement, the General Plan, the South San Francisco Municipal Code, and applicable state and federal law, including Government Code section 65864, et seq., and has determined that the proposed Development Agreement complies with all applicable zoning, subdivision, and building regulations and with the General Plan. The development contemplated in the Project and Development Agreement is consistent with the Zoning standards. This finding is based upon all evidence in the Record as a whole, including, but not limited to: the City Council's

independent review of these documents, oral and written evidence submitted at the public hearings on the Project, including advice and recommendations from City staff.

- F. The proposed Development Agreement for the Project states its specific duration. This finding is based upon all evidence in the Record as a whole, including, but not limited to: the City Council's independent review of the proposed Development Agreement and its determination that Section 2 of the Development Agreement states that the Development Agreement shall expire thirty (30) years from the effective date of this Ordinance.
- G. The proposed Development Agreement incorporates the permitted uses, density and intensity of use for the property subject thereto, as reflected in the proposed Project (P17-0037), Development Agreement (DA18-0001), and Relocation Agreement. This finding is based upon all evidence in the Record as a whole, including, but not limited to, the City Council's independent review of the proposed Development Agreement and its determination that the Development Agreement sets forth the Project approvals, development standards, and the documents constituting the Project.
- H. The proposed Development Agreement states the maximum permitted height and size of proposed sign structures on the property subject thereto. This finding is based upon all evidence in the Record as a whole, including, but not limited to, the City Council's independent review of the proposed Development Agreement and its determination that the Development Agreement sets forth the documents which state the maximum permitted height and size of sign structures.
- I. The proposed Development Agreement states specific provisions for reservation or dedication of land for public purposes. This finding is based on all evidence in the Record as a whole, including but not limited to the City Council's independent review of the Development Agreement.

SECTION 2. Approval of Development Agreement.

- A. The City Council of the City of South San Francisco hereby approves the Development Agreement with Action Signs, Inc. attached hereto as Exhibit A and incorporated herein by reference.
- B. The City Council further authorizes the City Manager to execute the Development Agreement, on behalf of the City, in substantially the form attached as Exhibit A, and to make revisions to such Agreement, subject to the approval of the City Attorney, which do not materially or substantially increase the City's obligations thereunder.

SECTION 3. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of South San Francisco hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 4. Publication and Effective Date.

Pursuant to the provisions of Government Code Section 36933, a summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting. This Ordinance shall become effective thirty (30) days from and after its adoption.