

**REPORT TO MAYOR AND COUNCIL****TO THE HONORABLE MAYOR AND COUNCIL:**

Date: March 24, 2015

SUBJECT: PRESENTATION TO THE CITY COUNCIL REGARDING THE FEBRUARY 4, 2015 PLANNING COMMISSION STUDY SESSION ON TEMPORARY SIGNS AND TEMPORARY USES

Report in Brief

The Planning Commission held a study session on February 4, 2015 to provide Planning staff with direction and feedback regarding updates to the Temporary Sign and Temporary Use Ordinances in the Development Code. Both of these codes are related to the marketing and promotion of local businesses. Residents and members of the local business community who had previously expressed an interest in the topic were notified of the study session and provided comments.

Enhancing the City's temporary sign provisions to better serve Concord's business community has been identified as a Council priority. Staff requests that the City Council members review this report and staff's presentation and provide feedback for staff and the Planning Commission. Staff anticipates these regulation changes to be brought forward in June 2015 with the next round of Development Code updates currently in progress.

Background

The Development Code is a living document that requires routine maintenance in order to remain an effective instrument that reflects the goals and policies of the City. Regular and routine code updates are necessary in order to address changing conditions, community needs and interests, and occasional state mandates. The Planning Division intends to bring forward Development Code updates on an annual basis as a part of the division's ongoing work program. Development Code update priorities are generally set by the City Council, based upon consideration and input given from Boards and Commissions and policy direction set forth in the General Plan and related documents such as the Downtown Specific Plan. Code updates mandated by State law have priority for processing as do life-safety and public-safety issues, and legal conflict or liability issues.

In June, staff plans to bring forward updates related to a number of items including correcting code errors and inconsistencies, extending time extensions for entitlements from 12 to 24 months, modifying the Use Permit requirements for businesses possessing more than four electronic games, exempting single family homes from design review when associated with a two-lot minor subdivision, and updating the temporary signs and uses ordinances. Most of the code items staff intends to bring forward this summer will focus on improvements that benefit small businesses. This report is focused on the temporary sign and temporary use ordinances.

On September 24, 2013 the City Council adopted the first round of Temporary Sign Ordinance changes to accommodate the special needs of automotive dealerships which conduct the majority of their sales outdoors and are primarily located in the West Concord Mixed Use Zoning District. Prior to that time, the Council also

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approved accommodations for menu board A-frame signs and outdoor dining/sidewalk cafés within the public right-of-way in the Downtown Mixed Use (DMX) and Downtown Pedestrian (DP) zones. Following those efforts, Planning staff began moving forward with a review and update of other temporary sign and outdoor display regulations in the fall of 2013.

Planning staff worked with interested business owners, local business organizations, and sign companies in order to identify the desired changes to the Temporary Sign Ordinance and garner feedback. Those efforts included hosting a meeting with the Governmental Affairs sub-committee of the local Chamber of Commerce on November 12, 2013 and meeting with the Small Business Owners Association on October 16, 2013. Some of the concerns identified during the public outreach included improving the overall permitting process for signs, the high cost of permit fees, the timeframe for issuing sign permits, the difficulty in modifying existing sign programs, and an interest in revising the code to allow pennants, flags, lawn signs, and feather signs. Staff has been reviewing all of these proposals with consideration given to other existing codes, safety, equity, and community aesthetics.

The Planning Commission previously discussed temporary signs at their August 20, 2014 meeting outlining the Planning division's annual work program. During that meeting, the Planning Commission requested staff return at a later date to focus on temporary sign regulations. Staff returned to the Planning Commission on February 4, 2015 for a more focused discussion.

Current Available Options

Staff began the Planning Commission study session by presenting the options currently available for business promotion in the Development Code. These allowances are generally consistent with provisions found in neighboring communities. Options that are currently available include:

- Businesses may erect a temporary banner for up to 30 days, twice a year, with a free permit issued by the Code Enforcement division at the Police Department (§18.180.120).
- Businesses can apply for a permit to display their merchandise outdoors for up to 30 days a year with an approved Administrative Permit (§18.200.200[F]).
- Businesses can host a tent sale or similar outdoor sales event with an approved Administrative Permit (§18.200.200[F]).
- Minor promotional events within established shopping centers with fewer than 100 attendees are permitted up to three days per year, twice a year, with a Zoning Clearance (§18.200.200[E]). They must occur before 9pm and “not have amplifying equipment within 300 feet of a residential area.”
- A multi-tenant building or shopping center could propose special provisions to accommodate temporary signs as a part of a Master Sign Program (§18.180.060). The Planning Commission is the review authority for all Master Sign Programs and reviews each proposal on a case-by-case basis.
- Temporary window signs are permitted on up to 10 percent of window area, not to exceed 50% of any single window pane (§18.180.030).

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Planning Commission Discussion

The purpose of the Planning Commission study session held on February 4, 2015 was to receive direction from the Planning Commission on a preferred strategy for the existing temporary sign and display regulations for commercial businesses as a part of the on-going Development Code update process. Planning staff were joined by Sgt. Russ Norris from Code Enforcement who provided information about the City's enforcement efforts. After the staff presentation and public testimony, the Planning Commission presented a number of recommendations:

Business Promotion

Although Concord's Development Code already provides a number of promotional options for businesses, it was noted that these options are not well advertised, promoted, or understood by the business community. The Planning Commission recommended that staff work with the Economic Development division to develop a clear menu of the available marketing options for Concord's business community. They recommended that such efforts be supported by posting clear and understandable sign and outdoor display permit information online and developing a brochure or handout to explain and promote the different types of promotional options currently available.

Permit Streamlining

The Commission recommended that City staff continue to work on clarifying, simplifying and automating the City's permit processes. All of the Commissioners agreed that the City should work towards developing an online permitting system. It was also suggested that the City consider developing a system to accommodate permit applications in Spanish.

Sidewalk Sales

The current Temporary Use code provisions do not accommodate sidewalk sales. Sidewalk sales are a relatively common form of business promotion and, when regulated properly, have a positive benefit with minimal problems. The Planning Commission recommended adjusting the "Outdoor Sales and Display" provisions in section §18.200.200 to specifically accommodate sidewalk sales. Such new regulations would likely address area limits for sidewalk sales, limitations on the time and duration of events, and standard safety requirements such as sales not obstructing ADA access or emergency egress from a building. Any sidewalk events located within a public right-of-way would also require an application for an encroachment permit from the Engineering Division. Due to the high cost of an Administrative Use Permit, currently at \$671, it was also recommended that a special reduced fee be designated, as is done for sidewalk café Administrative Permits.

Temporary Banners

The Planning Commission recommended that the City continue to allow temporary banner sign permits and that the permits continue to be issued free of charge. The Commission recommended that the issuance of banner permits be returned to the Permit Center (because these permits are currently issued and enforced by the Code Enforcement Division, permit applications are made at the Police Department). The Commission also recommended that staff look for ways to make it easier for businesses to apply, such as through the City website.

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Due to the high cost of enforcement, the Planning Commission suggested a number of ways the City could encourage self-enforcement, such as requiring banner permit applicants to pay a refundable deposit, posting a list of currently permitted temporary banners online, or requiring applicants to place a date-stamped expiration sticker on their temporary banner. Of the options available, staff believes a deposit-based system would be the most effective way to encourage self-enforcement, although it would not necessarily verify that a banner has been removed.

A-Frame Signs

The Planning Commission was interested in expanding allowances for A-frame signs beyond those currently allowed for downtown cafés. The Commissioners were uncertain about setting specific standards for the design and regulation of A-frame signs and requested that staff return to them with another study session to specifically focus on code provisions for allowing A-frame signs city-wide. Staff has tentatively set the date for a focused A-frame study session at the April 1, 2015 Planning Commission hearing.

Code Clean-Up and Organization

The Development Code provisions for temporary promotional events and outdoor merchandise displays that currently exist (§18.200.200) are not clearly written or uniformly organized, resulting in some difficulty when interpreting and applying the code to real world situations. It was recommended that the outdoor merchandise display provisions be revised to differentiate between the different types of outdoor temporary uses and displays, which can range from a simple sidewalk sale to a multi-day parking lot sales event. For example, the Planning Commission discussed the current window sign provisions, which are not located in the temporary sign section of the Development Code, making the regulations difficult to find.

The current Temporary Sign Ordinance (§18.180.120), on the other hand, is straightforward but limited in scope. Concord's Temporary Sign Ordinance currently allows the following: A-frame signs for sidewalk cafes (menu boards), temporary banner signs, a variety of promotional signs for automotive dealerships, and subdivision development/real estate signs. Temporary signs associated with master sign programs, such as parking lot banners, are evaluated and approved by the Planning Commission on a project-by-project basis. No other temporary sign provisions are currently allowed.

The current round of Temporary Sign and Temporary Outdoor Display code updates are focused on those sections which apply to commercial speech/signage, rather than political speech/signage. Commercial speech is economic in nature and usually has the intent of convincing the audience to purchase a specific product or service. Commercial speech/signage has fewer legal protections than political speech/signage and is regulated under a different section of the Development Code.

Enforcement

While temporary signs themselves are inexpensive and convenient for businesses, the permitting, enforcement, and removal of these signs come at a substantial expense for the City. For example, a Code Enforcement officer spending one hour in the field costs about \$79.79, according to the current productive rate identified in the City's Fee Schedule. At the study session, Code Enforcement Manager Sgt. Russ Norris reported to the Planning Commission that their division received 68 sign complaints in 2014, requiring a total of 102 staff hours at an approximate cost of \$7,460.62. Code Enforcement does not currently undertake proactive enforcement

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of signs and only responds when a formal complaint is filed. In addition to those costs, when temporary signs are placed on a utility pole, traffic signal, or in the public right of way, a Public Works maintenance crew is required to regularly remove them at the City's expense. There is no cost recovery for the enforcement and removal efforts of improperly placed temporary signs. Following the report from Sgt. Norris, the Planning Commission recommended staff conduct better outreach to businesses and the public to help reduce the City's enforcement efforts and reduce the cost of enforcement.

Other Discussion Items

The Planning Commission also discussed a few other topics related to temporary signs and outdoor displays, including vinyl building wraps, window signs, and the City's current provisions for Master Sign Programs. These topics were suggested to return for further discussion by the Planning Commission at a future date. Staff indicated that there is uncertainty surrounding compliance of building wraps with current Building and Fire Codes.

Public Comments

Prior to the February 4th study session, staff reached out to interested members of Concord's business community, including the Chamber of Commerce, the Concord Small Business Association, and the Todos Santos Business Association (TSBA), as well as to individuals who attended prior meetings or had expressed an interest in the topic. Eight persons spoke at the Planning Commission study session, including Marilyn Fowler of the Chamber of Commerce, Lynn Kuehl of the Concord Small Business Owners Association, and Darrin Walters of the Todos Santos Business Association. Chris Cole, Niko Anagnostopoulos, Adam Foster, Ray Barbour, and Ed Andrews also spoke at the hearing. Some of the suggestions they proposed at the study session included modifying the code to allow businesses to erect A-frame signs, developing design guidelines for A-frame signs, developing codes to permit building wraps, doing a better job of providing information for local merchants about the options currently available, and improving and simplifying permit applications such as through an online application system.

Next Steps

Staff has tentatively set a date for a focused study session to discuss A-frame signs at the April 15, 2015 Planning Commission hearing. Following tonight's discussion and the outcome of the next Planning Commission study session, staff anticipates bringing these items forward with the next round of proposed Development Code updates to the Planning Commission in June followed by consideration by the City Council in July.

Fiscal Impact

The Planning division's efforts to update the Development Code are supported by the General Fund. Changes to the Temporary Sign and Temporary Use Ordinances may have an effect on staffing and enforcement resources. Costs related to the review, issuance and enforcement of any new permits would need to be evaluated with a separate fee study. Costs associated with Code Enforcement and removal efforts by Public Works crews are generally not recoverable.

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Public Contact

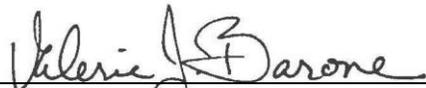
The City Council agenda was posted. Members of the public who have expressed an interest in this item have also been notified and emailed a copy of this staff report.

Recommendation for Action

There is no recommendation or call for approval from the Council. However, the Council may wish to provide feedback on the issues and information presented.

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