

STAFF REPORT

TO: Planning & Economic Development Committee **DATE:** 4/19/11
FROM: Shannon Tuch, Assistant Director – Planning & Development
SUBJECT: Billboards in Asheville

Summary:

A short report on the background affecting the use and regulation of billboards in the City of Asheville in the context of a new request for a digital billboard on Merrimon Ave.

Background:

City of Asheville considered the amortization of billboards within the corporate limits of Asheville back in the late 90's/00's. This resulted in several legal disputes, some of which were on-going for extended periods of time.

In the summer of 2004, the NC General Assembly adopted NCGS 160A-199 which essentially took away a city's ability to amortize billboards over time by establishing the requirement for the payment of the fair market value of any sign whose removal was required. As an alternative to amortization, the law also allowed the option of a "Cap and Replace" ordinance for cities and, in September of 2004, the City of Asheville adopted such an ordinance.

Cap and Replace works by authorizing the CoA to register qualifying billboards and then enter into an agreement with an outdoor advertising company allowing them to exercise the options under the Cap and Replace ordinance. Once qualified, the billboards may be maintained as they are, or they may be removed and relocated to another site - the ordinance also allows for the recombination or consolidation of billboard square footage into new structures provided they are relocated to the designated relocation overlay areas. These areas include:

- 1) **Patton Avenue** from the French Broad River to the outer limit of the ETJ jurisdiction in Enka;
- 2) **Merrimon Avenue** from Chestnut Street North to Woodfin;
- 3) **Sweeten Creek Road** from Fairview Road to the outer limit of the ETJ;
- 4) **Hendersonville Road** from I-40 Interchange to the outer limit of the ETJ;
- 5) **Tunnel Road** from the tunnel to the outer limit of the ETJ past Oteen;
- 6) **Leicester Highway** from Patton Avenue to the outer limit of the ETJ; and
- 7) **Brevard Road** from I-240 Interchange to the outer limit of the ETJ.
- 8) **Airport Road** from Hendersonville Road to the boundary between Buncombe County and Henderson County; and
- 9) **Long Shoals Road** from Hendersonville Road to the outer limit of the ETJ.

In December 2004, the City of Asheville entered into the first of such agreements with Fairway and Lamar which are the two most prominent outdoor advertising companies in Asheville. This initial agreement included the immediate removal of 10 very prominent billboard signs that would not to be replaced, in addition to the conveyance of the property on which one of these billboards (S. Charlotte St.) was located.

Since that time, there have been a limited number of cap and replace applications until 2008 when the CoA adopted standards to allow for the installation of digital billboards in lieu of traditional paper/vinyl billboards. These new standards required a replacement rate of 3 square feet of traditional billboard sign face for every 1 square foot of digital sign face erected. Lamar was the first company to seek digital billboards and in 2008/2009, pulled permits for six separate digital billboards. In addition to the conversion requirements, other special standards regulating these digital billboards included:

- Location within the designated overlay areas
- Separation requirements between digital billboards and other billboards
- Brightness and automatic adjustments for light levels
- A limit on the number of advertising slots
- A requirement that one slot be retained for public announcements
- Limits on the speed at which a message changes (6 seconds)
- Min. and max sign sizes (70 s.f. and 380 s.f. respectively)
- Min. and text heights (based on speed of road)
- Prohibitions on known motorist distractions such as flashing, scrolling, fading, or animation of any kind

Fairway, like Lamar, is now interested in digital billboards and has recently submitted four separate applications for new digital billboards at various locations throughout the City, including a site that is on the west side of Merrimon Ave., across from Coleman St. (just north of Claxton Elementary).

Analysis

Planning staff is concerned that, although there are a significant number of billboards already located on Merrimon Ave., that the appearance of a new digital billboard will be alarming to residents and frequent travelers of Merrimon Ave. An appeal to Fairway to consider alternative sites was pursued and a site located at x Riverside Drive, which currently supports a traditional billboard, was proposed by Fairway. This site has not been considered by Fairway because the existing billboard is not registered because it is located along a Federal Aid Highway/Interstate.

In review of the qualified billboard sign inventory, it is apparent that no sign located on a Federal Aid Highway is included. The Federal Beautification Act regulates billboards located along interstates and does not allow for any new signs within 660 feet and visible from the interstates. While it is clear that no new signs could be relocated to these federally managed corridors, it is unclear whether an existing sign could be qualified and included in a Cap and Replace program. Other sections of the sign code include references that suggest it may be possible, or at least not in conflict to do so.

Financial Impact/Resources:

There is no direct financial impact identified.

Goal Alignment:

If successful, this effort would satisfy a variety of city adopted community and economic goals directed at aesthetics of key corridors (gateways) into the City.

Goal Alignment:

Staff recommends that the Planning and Economic Development Committee direct planning & legal staff to continue looking into the possibility of allowing the sign located on Riverside Drive

to be qualified and, to expand the overlay areas to possibly include portions of Riverside Drive. To do so may require an ordinance amendment and an amendment to the agreements with the billboard companies.

Additionally, staff recommends that options for removing Merrimon Ave. from the qualified sign overlay zone also be considered and investigated.