

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: TLMA - Planning Department

SUBMITTAL DATE:
March 8, 2007

SUBJECT: Ordinance No. 449.230, an Ordinance of the County of Riverside Establishing Interim Zoning Prohibiting Outdoor Advertising Displays within 500 feet of either side of Mission Trail, between Malaga and Palomar Streets, in Wildomar.

RECOMMENDED MOTION: That the Board: (1) Adopt Ordinance No. 449.230 (4/5ths vote required) and (2) Direct the Clerk of the Board of Supervisors to notice a public hearing for April 24, 2007, to determine whether the ordinance should be extended.

BACKGROUND: Outdoor advertising displays have proliferated along certain roadways to the point where they detract from the scenery, serve as a dangerous distraction to motorists, adversely impact natural resources, and generally derogate the environment. In addition, a two-year community planning effort by the County developed proposed amendments to be considered for incorporation into the County's General Plan. These proposed amendments reflect the community's need for balanced land uses and to assist in revitalizing older areas of the community, including the area located along Mission Trail between Malaga Street and Palomar Street. Outdoor advertising display permits in the Wildomar Area may conflict with these proposed amendments and detract from both the community's scenic resources and the viability of other potential future development proposals in the area. Ordinance No. 449.230 will give the Planning Department an opportunity to study the significance of scenic resources in the area and for the proposed amendments resulting from the community planning effort to be heard by the County Planning Commission and Board of Supervisors, and be considered for adoption.

C.E.O. RECOMMENDATION:

Ron Goldman
Planning Director

initials

REVIEWED BY EXECUTIVE OFFICE
 DATE *3/8/07*
 FORM APPROVED
 COUNTY COUNSEL
 MAR 08 2007
[Signature]

Policy
 Policy

Consent
 Consent

Dept's Recomm.:
 Per Exec. Ofc.:

RECEIVED RIVERSIDE COUNTY
 MAR 8 2007 10:51 AM

Prev. Agn. Ref.

District: 1

Agenda Number:

3.51



1 the study and consideration of the proposed amendments to the County's General Plan that resulted from
2 the community planning effort by the County.

3 Section 5. The Clerk shall schedule a public hearing before the Board to consider any
4 extension of this ordinance which shall normally be at its second regular meeting before expiration of the
5 initial forty-five (45) day period. The Clerk shall publish notice ten (10) days before the hearing. A
6 public hearing need not, however, be scheduled if any of the following occurs: a subsequent permanent
7 zoning ordinance applicable to the same area is passed before such expiration, this ordinance is repealed,
8 or the Board otherwise orders.

9 Section 6. At or before the public hearing on any proposed extension and at least ten (10) days
10 prior to the expiration of this ordinance, the Planning Director shall make a written report to the Board
11 describing therein all measures taken to alleviate the condition which led to the adoption of this
12 ordinance.

13 BOARD OF SUPERVISORS OF THE COUNTY
14 OF RIVERSIDE, STATE OF CALIFORNIA

15
16 BY _____
Chairman, Board of Supervisors

17 ATTEST:
18 NANCY ROMERO
19 Clerk of the Board

20
21 By _____
22 (Deputy)

23 (SEAL)

24
25 APPROVED AS TO FORM
26 March 8, 2007

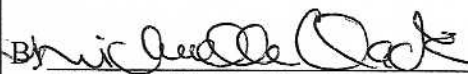
27 
28 MICHELLE P. CLACK
Deputy County Counsel

Exhibit "A"

In the unincorporated area of the County of Riverside, a 500-foot setback from the edge of each right-of-way line along Mission Trail between Malaga Street and Palomar Street.

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JMBM | Jeffer Mangels
Butler & Marmaro LLP

Benjamin M. Reznik
Direct: (310) 201-3572
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BMR@jmbm.com

1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

March 11, 2007

VIA FACSIMILE AND FEDERAL EXPRESS

John F. Tavaglione, Chairman
Riverside County Board of Supervisors (District 2)
Riverside County Administrative Center
4080 Lemon Street
Riverside, CA 92502-1629

Re: Proposed Ordinance No. 449.230, Agenda No. 3.51

Dear Mr. Tavaglione:

This office represents Leonard & Company, Inc. ("LCI"). On March 8, 2007, the Riverside County Planning Department ("Planning Department") recommended the Riverside County Board of Supervisors ("Board") adopt Ordinance No. 449.230 ("Billboard Moratorium") prohibiting the approval and issuance of outdoor advertising permits in the unincorporated 500-foot setback from the edge of each right-of-way line along Mission Trail between Malaga and Palomar Streets. The Board is urged to justify this purported "urgency measure" under Section 65858 of the California Government Code and Section 20.4 of Riverside County Ordinance 348 (collectively "Section 65858"). Section 65858 requires an immediate threat to the public health, safety and welfare to justify the Board's avoidance of the standard notice and public comment provisions normally required prior to the adoption of a zoning ordinance. In support of this "immediate threat", the proposed Billboard Moratorium alleges: detractions from scenery; distractions to motorists; and the adverse impacts upon natural resources and general derogation of the environment.

In brief, the reasons cited above fail to support a finding of an immediate threat to the Riverside public health, safety and welfare under Section 65858 and the application of this Billboard Moratorium violates our client's rights to due process and will cause our client to suffer substantial damages. We demand the Board refuse to adopt the Billboard Moratorium as an urgency measure or, alternatively, exempt LCI's permit application from the Billboard Moratorium's requirements. At a minimum, we demand the Planning Department continue to process LCI's Application while this temporary measure is in force.

John F. Tavaglione, Chairman
March 11, 2007
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LCI Has Incurred Expenses In Reliance Upon Applicable Current Provisions Of Zoning Code

LCI began to investigate potential billboard sites in early December 2006. After diligent search and the expenditure of considerable hours and effort, LCI discovered an acceptable site upon 1.42 acres located at 33930 Mission Trail in County of Riverside, California (the "Property"). LCI reviewed applicable provisions of the Riverside County Zoning Ordinance, including sections 19.1 through 19.3, and proceeded with its plans for the Property based upon the provisions therein. On February 13, 2007, in reliance on the current provisions of the zoning code, LCI and the owners of the Property entered into a ten-year lease agreement for the lease of the Property specifically envisioning the erection of outdoor advertising. On March 6, 2007, LCI submitted an Application For A Minor Plot Plan ("Application") to the County of Riverside Planning Department and paid the \$670.14 fee. A copy of the Application and proof of payment are attached hereto as Exhibit A. LCI spent an additional \$700.00 for the design of the plot plan in support of the Application. At no point was LCI informed of the Riverside Planning Department's proposed moratorium on outdoor advertising.

The Billboard Moratorium Is Not Supported By Findings Indicating An Immediate Threat To The Public Health, Safety, Or Welfare As Required By Section 65858

The Billboard Moratorium must recite facts that reasonably constitute urgency as required by Section 65858. In this case, however, the facts cited to justify the Billboard Moratorium are conclusory and speculative and do not support the finding of an immediate threat to the public health, safety and welfare. First, the Billboard Moratorium finds that detractions from scenery justify the urgent measures. Even assuming, *arguendo*, that billboards in and of themselves cause a detraction from scenery, such a detraction does not indicate an *immediate* threat to public welfare. No factual evidence is provided to support this finding. The Billboard Moratorium then asserts that billboards are "dangerous distractions to motorists." However, there is no indication that in this particular area outdoor advertising presents a distraction constituting an immediate threat to public health and safety. Simply appending the word "dangerous" to the condition does not make it so. Outdoor advertising continues to be acceptable in other areas of Riverside and there is no mention of traffic accidents particular to this area that would support such a finding. Lastly, the Billboard Moratorium finds that billboards cause adverse impacts upon natural resources and general derogation of the environment. There is not even an effort made in the findings of urgency to identify what those adverse impacts are and which natural resources are affected. Again, because outdoor advertising is allowed in other areas of Riverside County and any such advertising is, by its nature, removable, any purported damage to the environment is easily reversible. Thus, there is no immediate threat to public health, safety or welfare posed by LCI's proposed outdoor advertising.

John F. Tavaglione, Chairman
March 11, 2007
Page 3

The Timing And Application Of The Ordinance Indicates A Specific Intent To Interfere With LCI's Application

Moreover, the timing two days after the submission of LCI's Application and the restricted geographic location of the Billboard Moratorium suggest LCI's application is being singled out without appropriate justification. LCI cannot discern any motive for the Planning Department to single out its application other than to prevent its application from being approved. The focused application of this Billboard Moratorium to interrupt LCI's Application underscores the need for a properly noticed hearing and opportunity for LCI to be heard. Fairness demands that the Ordinance should not be adopted via the conclusory assertions explained above without providing LCI the opportunity to prepare and present its case justifying its Application.

Conclusion

Thus, because the Billboard Moratorium is not supported by findings indicating an immediate threat to the public health, safety, or welfare, it cannot be adopted as an urgency ordinance pursuant to Section 65858. If adopted, LCI demands that its pending application be exempt from the Billboard Moratorium. LCI is prepared to pursue all available remedies to protect its rights including, but not limited to, initiating a lawsuit for mandamus to redress the Board's abuse of discretion and to assert claims for violation of due process and damages. We sincerely hope that the Board will approve our client's application without the need to resort to the courts.

We are available to discuss this matter with you or any other representatives of the Board or Planning Department in the hopes that litigation will not be necessary. This letter is written without waiver of our client's rights and remedies, all of which are expressly reserved.

Sincerely,



BENJAMIN M. REZNIK

IAN M. FORREST

Jeffer, Mangels, Butler & Marmaro LLP

BMR:imf
Attachment

cc. Bob Buster, Member, Board of Supervisors (District 1)
Jeff Stone, Member, Board of Supervisors (District 3)
Roy Wilson, Vice Chairman, Board of Supervisors (District 4)
Marion Ashley, Member, Board of Supervisors (District 5)
Ron Goldman, Planning Director
Nancy Romero, Clerk of the Board of Supervisors
Joe Rank, County Counsel

COUNTY OF RIVERSIDE
TRANSPORTATION AND LAND MANAGEMENT AGENCY
Planning Department
 Robert C. Johnson, Planning Director

APPLICATION FOR MINOR PLOT PLAN

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

CASL NUMBER: _____ DATE SUBMITTED: _____

APPLICATION INFORMATION

Applicant's Name: Mike Ondeck/ Leonard & Co., Inc. E-Mail: m.ondeck@verizon.net

Mailing Address: 850 E. Ocean Blvd., #805
Long Beach, CA 90802
City State Zip

Daytime Phone No: (562) 432-6725 Fax No: (_____) _____

Engineer/Representative's Name: Steven Schaub E-Mail: _____

Mailing Address: 5800 E. Thomas
Scottsdale, AZ 85251
City State Zip

Daytime Phone No: (480) 946-2010 Fax No: (_____) _____

Property Owner's Name: Ross & Wanda Erwin E-Mail: _____

Mailing Address: 33930 Mission Trail
Wildomar, CA 92595
City State Zip

Daytime Phone No: (951) 674-5801 Fax No: (_____) _____

If the property is owned by more than one person, attach a separate page that references the application case number and lists the names, mailing addresses, and phone numbers of all persons having an interest in the real property or properties involved in this application.

The Planning Department will primarily direct communications regarding this application to the person identified above as the Applicant. The Applicant may be the property owner, representative, or other assigned agent.

AUTHORIZATION FOR CONCURRENT FEE TRANSFER

The signature below authorizes the Planning Department and TLMA to expedite the refund and billing process by transferring monies among concurrent applications to cover processing costs as necessary. Fees collected in excess of the actual cost of providing specific services will be refunded. If additional funds are needed to complete the processing of your application, you will be billed, and processing of the

Riverside Office - 4080 Lemon Street, 9th Floor
 P.O. Box 1404, Riverside, California 92502-1404
 (951) 955-8200 - Fax (951) 955-3157
 Form 950 10/02 (04/07/05)

Indio Office - 82-675 Hwy 111, 2nd Floor
 Room 209, Indio, California 92201
 (760) 863-8277 - Fax (760) 863-7365

Murietta Office - 26453 Los Alamos Road
 Murietta, California 92562
 (951) 800-6170 - Fax (951) 800-6145

EXHIBIT A

APPLICATION FOR MINOR PLOT PLAN

application will cease until the outstanding balance is paid and sufficient funds are available to continue the processing of the application. The applicant understands the deposit fee process as described above, and that there will be NO refund of fees which have been expended as part of the application review or other related activities or services, even if the application is withdrawn or the application is ultimately denied.

All signatures must be originals ["wet-signed"]. Photocopies of signatures are unacceptable.

Mike Ondeck/ Leonard & Co., Inc.
PRINTED NAME OF APPLICANT

Mike Ondeck
SIGNATURE OF APPLICANT

AUTHORITY FOR THIS APPLICATION IS HEREBY GIVEN:

I certify that I am/we are the record owner(s) or authorized agent and that the information filed is true and correct to the best of my knowledge. (Authorized agent must submit a letter from the owner(s) indicating authority to sign in the owner's behalf.

All signatures must be originals ["wet-signed"]. Photocopies of signatures are unacceptable.

SIGNATURE OF PROPERTY OWNER(S):

Ross Erwin
PRINTED NAME OF PROPERTY OWNER(S)

Ross Erwin
SIGNATURE OF PROPERTY OWNER(S)

Wanda Erwin
PRINTED NAME OF PROPERTY OWNER(S)

Wanda Erwin
SIGNATURE OF PROPERTY OWNER(S)

If the subject property is owned by persons who have not signed as owners above, attach a separate sheet that references the application case number and lists the printed names and signatures of all persons having an interest in the property.

PROJECT INFORMATION

Proposal (describe the project and reference the applicable Ord. No. 348 section):

Off-site outdoor advertising billboard. Illuminated 10' x 30' (300sq.ft.) V billboard, 25' overall height, single column steel support.

Related cases or underlying case: None

PROPERTY INFORMATION

Assessor's Parcel Number(s): 366-160-020

Section: 22 Township: T 65 Range: R 4 W

Approximate Gross Acreage: _____

General location (street address, cross streets, etc.): North of Bundy Canyon, South of _____

APPLICATION FOR MINOR PLOT PLAN

Waite East of Corydon West of I-15

Thomas Brothers Map, edition year, page no., and coordinates: 2005, Page: 897, A - 4

MINOR PLOT PLAN SUBMITTAL REQUIREMENTS FOR THE FOLLOWING APPLICATION TYPES:
 (Note: All exhibits shall be folded to a maximum 8½" x 14" size)

COMMERCIAL/INDUSTRIAL

1. Completed Application form.
2. Six (6) scaled copies of a site plan showing all of the listed items (within the applicable case type column) as identified on the Minor Plot Plan Exhibit Requirements matrix.
3. Six (6) scaled copies of floor plan and elevations. See floor plan and elevation details described on page 11 for more information.
4. Current processing deposit-based fee.

AGRICULTURAL DWELLING

1. Completed Application form.
2. Six (6) scaled copies of a site plan showing all of the listed items (within the applicable case type column) as identified on the Minor Plot Plan Exhibit Requirements matrix.
3. Complete Agricultural Mobile Home Supplement (Form 295-1025)
4. Six (6) scaled copies of floor plan and elevations of the agricultural dwelling. See floor plan and elevation details described on page 11 for more information.
5. Current processing deposit-based fee.

NOTE: Agricultural dwellings are allowed only in A-1, A-2, A-P, A-D, R-A, and W-2 zones. There must be at least 10 acres in active farming uses occurring on the subject property (however, in the A-P zone, for a poultry operation, the number of birds must not be less than 15,000.) A maximum of one agricultural dwelling for each 10 acres, up to four (4) units may be permitted. Each unit must be occupied by either the owner, the operator, or an employee of the farming operation, and may not be rented or held out for lease to anyone other than an employee of the farming operation. Each unit must be screened from view by trees or shrubs from front property line and be located no closer than 50 feet from any property line.

BEAUTY SHOP

1. Completed Application form.
2. Six (6) scaled copies of a site plan showing all of the listed items (within the applicable case type column) as identified on the Minor Plot Plan Exhibit Requirements matrix, plus the additional following items:
 - A. Parking spaces, numbered and dimensioned
 - B. Parking requirements: One (1) parking space for every 150 square feet of gross floor area or one (1) parking space for each employee plus two (2) parking spaces for each barber chair/beautician station, whichever is greater.
3. Six (6) scaled copies of a floor plan. See floor plan and elevation details described on page 11 for more information.
4. Current processing deposit-based fee.

APPLICATION FOR MINOR PLOT PLAN

											MINOR PLOT PLAN EXHIBIT REQUIREMENTS	
Commercial/Industrial	Kennel/Cattery	Christmas Tree Lot	Agricultural Dwelling	Beauty Shop	Minor Outdoor Event	Signs - On-site/Off-site	Temporary Sales Trailer	Model Home Complex	Final Site Plan w/Development	Landscape Plan	Wireless Communication Facilities	
												Structures, and above and below ground structures, including subsurface sewage disposal systems.
X		X		X	X		X	X			X	21. Location, dimensions, arrangement and numbering of parking spaces for existing and/or proposed parking and loading/unloading facilities, identifying handicapped and compact parking spaces.
X		X	X	X	X		X	X			X	22. Location and dimensions of existing and proposed ingress and egress, and methods of vehicular circulation.
X	X					X					X	23. Location, dimensions, elevations, and height of existing dwellings, buildings or other structures, labeled as existing, and indicating whether they are to remain or be removed.
X								X			X	24. Location, dimensions, and height of proposed dwellings, buildings, or other structures, labeled as proposed.
X	X	X		X	X		X	X			X	25. Setback dimensions of existing structures and paved areas.
X	X			X	X		X	X			X	26. Setback dimensions of proposed structures and paved areas.
X											X	27. Labeled landscape areas with dimensions and spacing of proposed planters.
X			X	X			X	X				28. Square footage calculations per floor and total for building, for each building shown, and per dwelling unit as applicable.
X								X			X	29. Irrigation and landscaping plans, including size, plant species, and spacing proposed, including planters, and irrigation system location and specifications.
							X	X	X		X	30. Case number for parent approval (Tract, CUP, Plot Plan, etc.)
											X	31. Show the six inch curb and twelve (12) inch wide walkway, to be constructed along planters on end stalls adjacent to auto parking.
											X	32. Detailed irrigation plans required

APPLICATION FOR MINOR PLOT PLAN

												MINOR PLOT PLAN EXHIBIT REQUIREMENTS			
Commercial/Industrial	Kennel/Cattery	Christmas Tree Lot	Agricultural Dwelling	Beauty Shop	Minor Outdoor Event	Signs - On-site/Off-site	Temporary Sales Trailer	Model Home Complex	Final Site Plan of Development	Landscape Plan	Wireless Communication Facilities				
X	X	X	X	X	X	X	X	X	X	X	X	1.	Name, address, and telephone number of applicant.		
X	X	X	X	X	X	X	X	X	X	X	X	2.	Name, address, and telephone number of landowner.		
X	X	X	X	X	X	X	X	X	X	X	X	3.	Name, address, and telephone number of exhibit preparer.		
X	X	X	X	X	X	X	X	X	X	X	X	4.	Assessor Parcel Number(s) and address of property.		
X	X	X	X	X	X	X	X	X	X	X	X	5.	Scale (number of feet per inch). Use Engineer's Scale for all maps/exhibits. Architect's Scale is only acceptable for floor plans, elevations, and landscaping plans.		
X	X	X	X	X	X	X	X	X	X	X	X	6.	North Arrow		
X	X	X	X	X	X	X	X	X	X	X	X	7.	Date exhibit prepared.		
X	X	X	X	X	X	X	X	X	X	X	X	8.	Title of Exhibit (i.e. A Plot Plan for Beauty Shop)		
X	X	X	X	X	X	X	X	X	X	X	X	9.	Complete legal description of property.		
X	X	X	X	X	X	X	X	X	X	X	X	10.	Overall dimensions and total net and gross acreage of property.		
X	X	X	X	X	X	X	X	X	X	X	X	11.	Vicinity map, showing site relationship to major highways and cities, and two access roads. Proposed and existing paved roads will be indicated by heavy dark lines or noted as paved.		
X	X	X	X	X	X	X	X	X	X	X	X	12.	Thomas Brothers map page and coordinates. Identify edition year used.		
X	X	X	X	X	X	X	X	X	X	X	X	13.	Location of adjoining property and lot lines.		
X	X	X	X	X	X	X	X	X	X	X	X	14.	Existing and/or proposed zoning and land use of property.		
X	X	X	X	X	X	X	X	X	X	X	X	15.	Existing land use and zoning of property immediately surrounding subject property.		
X			X					X	X			16.	Names of utility purveyors and school district(s), including providers of water, sewer, gas, electricity, telephone, and cable television.		
X		X	X	X	X	X	X	X	X		X	17.	Location, widths, and improvements of existing and proposed public utility easements, transmission lines, power and telephone poles, and underground utilities on or abutting the property.		
X		X	X	X	X		X	X	X		X	18.	Names, locations, rights-of-way widths, and improvements of adjacent existing streets.		
X	X	X	X	X	X		X	X	X		X	19.	Streets, alleys, and rights-of-way providing legal access to the property.		
X		X	X	X	X		X	X	X	X	X	20.	Location, dimensions, setbacks, and nature of proposed and existing fences, gates, walls, free-standing signs, driveways, turnout and/or turnarounds, curbs, drainage		

COUNTY OF RIVERSIDE
SPECIALIZED DEPARTMENT RECEIPT
Permit Assistance Center

R0703670

4080 Lemon Street
Second Floor
Riverside, CA 92502
(951) 955-3200

39493 Los Alamos Road
Suite A
Murrieta, CA 92563
(951) 600-6100

32675 Highway 111
Room 209
Indio, CA 92201
(760) 863-8271

Received from: ONDECK MIKE/LEONARD & CO INC \$670.14
paid by: VI 08223C
paid towards: CAD01324 OUTDOOR ADVERTISING: NO DH
at parcel #: 33930 MISSION TR LELS
appl type: OAD1

By VDOMINGU Mar 06, 2007 08:38
posting date Mar 06, 2007

Account Code	Description	Amount
200063130100230168	CMP TRANS PLAN	\$21.00
20203310020072210	LMS SURCHARGE	\$13.14
202013100300201800	COMBINED DEPOSIT FEES	\$636.00

Overpayments of less than \$5.00 will not be refunded!

Additional info at www.tlma.co.riverside.ca.us/lms/lms.htm

RIVERSIDE TLMA RIVERSID
4080 LEMON ST
RIVERSIDE, CA. 92502

TERMINAL I.D.: 009215000000313274600
MERCHANT #: 8083132746

VISA
SALE
RECORD #: 081
DATE: MGR 06. 07

INV: 000001
TIME: 08:38
AUTH: 08223C

TOTAL \$670.14

MICHAEL S ONDECK
I AGREE TO PAY ABOVE TOTAL AMOUNT
ACCORDING TO CARD ISSUER AGREEMENT
(MERCHANT AGREEMENT IF CREDIT VOUCHER)
CUSTOMER COPY

COPY 1-CUSTOMER