



Memorandum

TO: HONORABLE MAYOR AND
AND CITY COUNCIL

FROM: Rosalynn Hughey

SUBJECT: SEE BELOW

DATE: November 13, 2018

Approved

Date

11/16/18

**SUBJECT: FILE NO. PP18-090: AN ORDINANCE AMENDING TITLE 23 OF THE
SAN JOSE MUNICIPAL CODE (THE SIGN CODE) RELATED TO
SIGNAGE IN THE NORTH SAN JOSE DEVELOPMENT POLICY
AREA AND MAKING MINOR NONSUBSTANTIVE CODE CHANGES**

RECOMMENDATION

- a. Consider the Determination of Consistency with the Final Program Environmental Impact Report (FPEIR) entitled, "North San José Area Development Policies Update Final Environmental Impact Report (SCH# 2004102067, Resolution No. 72768)" and Addendum thereto; and
- b. Approve an ordinance of the San José Municipal Code amending Title 23 (Sign Code) to amend Chapter 23.04, Part 1, Commercial and Industrial Zoning Districts and Neighborhood Business Districts, to add new section 23.04.036, "Business Center Signs," to allow freeway-facing on-site signs for sites located within the North San José Development Policy Signage Area, that are developed with destination entertainment or office uses; to add the definitions of "Destination Entertainment Facility" and "Business Center" to Chapter 23.02; and to make other non-substantive, ministerial, technical, or typographical changes to various Sections of said Chapters 23.02 and 23.04 of Title 23 (Sign Code) of the San Jose Municipal Code.

OUTCOME

Approval of the proposed ordinance will amend the Sign Code to allow permits to be issued for freeway-facing on-site signs within the North San José Development Policy Area for sites developed with destination entertainment uses or office/R&D uses.

BACKGROUND

The City Council previously approved changes to the Sign Code to promote economic development throughout the City by allowing more on-site signage opportunities for businesses in San José. These changes included adding signage for Large Outdoor Stadiums, Freeway Signs for shopping centers and 10 acre parcels in North San José, and allowing Supergraphic Signs on large scale buildings. The proposed Sign Code amendments will continue the use of signs as an economic development tool by further expanding the right of businesses in the North San José area to have freeway-facing, on-site signs. These additional signs will be for destination entertainment facilities and office/R&D uses located within the North San Jose Sign Area. Specifically, these two sign types will benefit the following sites:

1. Sites that are developed with office/R&D uses and that are at least 10 acres in size with at least 600 linear feet of freeway frontage; and
2. Sites that are developed as destination entertainment uses and that are at least 6 acres in size with at least 600 linear feet of freeway frontage.

ANALYSIS

The State of California Outdoor Advertising Act (Act) regulates outdoor advertising displays that are visible along public freeways and highways for both On-Site Commercial Speech¹ and Off-site Commercial Speech² advertising. The State regulations are intended to minimize driving distraction along freeways. One of the mechanisms to do this is to allow "On-Premise Business Center Display" signs for sites that meet the Business Center definition. In order to obtain a Business Center sign, the display must result in a consolidation of allowable signage within the Business Center so that fewer signs exist in the area. A business center is defined as a site that is developed under a master permit and has a use of commercial, industrial, or mixed commercial and industrial purposes. This definition can be further defined under the Municipal Code as long as the use conforms to the Act's requirement of uses.

The existing and proposed provisions in the City's Sign Code adhere to the Act and provide opportunities for on-site signs to promote business and commerce. The Sign Code has specific regulations for the quantity, size, and location of signs, and allows a variety of sign types to be used by a single business or building, subject to specific criteria. Currently, the Sign Code requires signs to include only On-Site Commercial Speech as defined in the Sign Code. A September 2018 Sign Code change to Billboard Signs now allows 17 City-owned parcels to have

¹ "On-site commercial speech" means commercial speech to identify and promote the presence of the commercial activities, products, goods or services conducted, manufactured or offered on the same parcel of land on which the commercial speech is displayed.

² "Off-site commercial speech" means commercial speech that identifies or promotes any commercial activity, product, good or service that is conducted, manufactured or offered on a site that is not the site on which the commercial speech is displayed and that is not conducted, manufactured or offered on the same parcel of land on which the commercial speech is displayed.

off-site advertising. A future code amendment will look into expanding this opportunity to privately owned sites, but at this time, only city-owned sites are allowed to have off-site advertising. These proposed Sign Code changes do not change this restriction.

Existing Freeway Signs

The current Sign Code defines and regulates Freeway Signs³ located on parcels that are in close proximity to a freeway or freeway travel lane. In general, these types of signs are restricted in the Sign Code, unless otherwise expressly allowed. These restrictions will continue to be imposed for all signs except for signs located on sites that meet the proposed definition of a Destination Entertainment Facility and Business Center site discussed below. The current Sign Code allows attached signs to be oriented towards a freeway for Commercial or Industrial Zoning Districts. A development permit approval is required for the installation of all Freeway Signs.

In addition to the standard Freeway Signs, the current Sign Code allows one Freeway Sign for a Large Shopping Center Site or for Commercial/ Industrial uses in the North San Jose Sign Area boundary that is up to a maximum of 500 square feet of sign area. Under the current Sign Code, a Freeway Sign is limited to 60 feet in height above grade with exceptions that would allow an increase in height to address grade differentials. The site is required to be at least 10 acres with a freeway-oriented frontage of at least 800 linear feet, and located within 250 feet of a Freeway Travel Lane, subject to specific regulations and criteria.

Business Center Signs

The proposed ordinance adds the Business Center definition to the Sign Code and amends the code to allow Business Center signs for sites that are developed with Office/R&D use within the proposed North San José Signage Area. This type of land use would be located on sites that are zoned as Commercial or Industrial Zoning District and have a General Plan land use designation that supports such uses. The proposed type of business center sign would be similarly configured as the previously approved freeway-facing Shopping Center Site⁴ signs, except for the unobstructed view from the property frontage to the closest freeway lane, if separated by a public street, will be limited to be within 300 feet. The recommended ordinance requires the size of such Office/R&D sites to be at least 10 acres with a freeway-oriented frontage of at least 600 linear feet, and located within 300 feet of a freeway travel Lane.

Destination Entertainment Facilities Signs

The proposed change will provide a definition of Destination Entertainment Facility and set the siting requirements for these types of signs. To qualify as a Destination Entertainment Facility,

³ "Freeway sign" means a large freestanding sign oriented to and designed to be viewed from a freeway.

⁴ "Shopping center site" means a cluster of commercial uses that are predominantly retail in nature occupying one or more buildings located on a single parcel, or on contiguous parcels developed under a single planning process, and that include shared facilities such as parking and pedestrian connections. A shopping center site shall not include parcels separated by a public street.

the site needs to be at least 6 acres in size with a freeway-oriented frontage of at least 600 linear feet, and located within 300 feet of a Freeway Travel Lane.

The proposed ordinance does not recommend increasing the existing sign area, the percentage of the programmable component, or the maximum allowable height for a Freeway Sign. A Freeway Sign would be required to be set back at least one 150 feet from a residentially zoned parcel, consistent with the current Sign Code, and conform to other existing applicable regulations, including a development permit for approval of the Freeway Sign.

Additionally, the recommended ordinance would include regulations that would require a Freeway Sign located in close proximity to an Airport to comply with all applicable Federal Aviation Administration (FAA) regulations, obtain FAA clearances, and incorporate dimming mechanisms to control the brightness of the light as necessary for airport operations. Any proposed sign will also need to be consistent with the General Plan and Riparian Corridor Policy.

The California Environmental Quality Act (CEQA) required environmental analysis of all eligible sites in the proposed North San José Signage Area. Limiting the newly allowable signage to sites that are at least 10 acres in size with 600 feet of Freeway Frontage, with a General plan land use designation of Combined Industrial/Commercial, Commercial or Industrial designations resulted in two potential sites that meet the Business Center definition for office uses; and two sites, that are at least 6 acres in size, that meet the Destination Entertainment Facility uses. Any future eligible site will require environmental evaluation and evaluation for consistency with the proposed requirements.

The proposed ordinance would update and add text to the Sign Code to better align with federal and state laws. It would include clarifying language and the correction of typographic errors.

EVALUATION AND FOLLOW UP

Staff will return to the City Council with additional revisions to the Sign Code consistent with City Council direction.

POLICY ALTERNATIVES

Alternative #1: Do not approve the ordinance.

Cons: By not approving the ordinance, opportunities to attract business and revenue along freeway-facing sites would continue to be limited under the current Sign Code provisions.

Pros: There would be potentially fewer signs viewable from freeways.

Reason for not recommending: This alternative does not implement Council direction.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy, in that notices for the public hearings were posted on the City's website and published in the San Jose Post-Record and emailed to a list of interested groups and individuals. This staff report and attachments were posted on the City's website. Staff has been available to respond to questions from the public.

Staff initiated outreach efforts to gather public input on the proposed Sign Code changes, and held a community meeting at City Hall on September 10, 2018. While no members of the public attended the meeting, staff continued to correspond with stakeholders who are interested in the proposed amendments to determine how the Sign Code may address their business needs.

COORDINATION

This report and the proposed ordinance were coordinated with the City Attorney's Office.

CEQA

Determination of Consistency with the Final Program Environmental Impact Report (FPEIR) entitled, "North San José Area Development Policies Update Final Environmental Impact Report (SCH# 2004102067)" and Addendum thereto. The FPEIR was adopted by City Council Resolution No. 72768 on June 21, 2005, for the North San José Area Development Policy.

/s/

ROSALYNN HUGHEY

Director, Planning, Building and Code Enforcement

For questions please contact Aparna Ankola, Project Manager, at 408-535-7845.

Attachments: Draft Sign Code Changes
North San Jose Signage Area Map

DRAFT TEXT - SIGN ORDINANCE

23.02.095 Business Center

Business Center means an individual development project, as defined in Section 65928, for commercial, industrial, or mixed commercial industrial purposes, as shown on a subdivision map or site map approved by the City. Includes a cluster of commercial uses that are predominantly office uses in nature occupying one or more buildings located on a single parcel, or on contiguous parcels developed under a single planning process, and that include shared facilities such as parking and pedestrian connections. A business center site shall not include parcels separated by a public street.

23.02.145 Destination Entertainment Facility

Destination Entertainment Facility means a Building with a Footprint of at least fifty thousand (50,000) square feet and which contains either a Relocated Cardroom or an indoor movie theater with an occupancy load of at least one thousand (1,000) people.

23.04.036 Business Center Signs

A. Quantity.

1. One (1) Business Center Sign, attached or free-standing, may be allowed on a Business Center Site located within the North San José Signage Area and not more than three hundred (300) feet from a Freeway Travel Lane, if the Business Center Site also meets the following criteria:
 - i. Is at least six (6) acres in size;
 - ii. Has at least six hundred (600) continuous linear feet of Freeway Frontage or six hundred (600) continuous linear feet of Street Frontage that parallels and is visible to a Freeway Travel Lane;
 - iii. Is developed as a Destination Entertainment and has a Zoning and General Plan Land Use Designation that supports such uses.
2. One (1) Business Center Sign, attached or free-standing, may be allowed on a Business Center Site located within the North San José Signage Area and not more than three hundred (300) feet from a Freeway Travel Lane, if the Business Center Site also meets the following criteria:
 - i. Is at least ten (10) acres in size;
 - ii. Has at least six hundred (600) continuous linear feet of Freeway Frontage or six hundred (600) continuous linear feet of Street Frontage that parallels and is visible to a Freeway Travel Lane;
 - iii. Is developed for research and development as defined in Section 20.200.1000 or office, research and development as defined in Section 20.200.818, and has a zoning and general plan land use designation that supports such uses.

A. Size.

No Business Center Sign shall have a total Sign Area in excess of five hundred (500) square feet.

B. Height.

1. No Business Center Sign shall exceed sixty (60) feet in height above surrounding Grade.
2. Exception:

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- i. The height of a Business Center Sign may exceed sixty (60) feet above Grade if the Director determines that all of the following conditions exist:
 - i. The elevation of existing Grade immediately adjacent to the Business Center Sign is more than ten (10) feet below the elevation of a Freeway Travel Lane located no greater than five hundred (500) feet from the Business Center Sign; and
 - ii. The difference in Grade pursuant to Section 23.04.040.C.2 cannot be resolved by moving the Sign and that difference in Grade obscures visibility of the Sign from the Freeway; and
 - iii. The height of the Business Center Sign above surrounding Grade does not exceed one hundred (100) feet; and
 - iv. The height of a Business Center Sign located closer than four hundred (400) feet from any residential dwelling unit does not exceed eighty (80) feet in height above Grade; and
 - v. The Business Center Sign conforms to all other provisions of this Title.

D. Location.

- 1. A Business Center Sign shall be located as close as possible to the nearest Freeway Travel Lane.
- 2. A Business Center Sign that includes a Programmable Electronic Sign shall be located no closer than one hundred fifty (150) feet from any residential dwelling unit.
- 3. Any location requirements applicable under State or federal law, including but not limited to separation requirements.

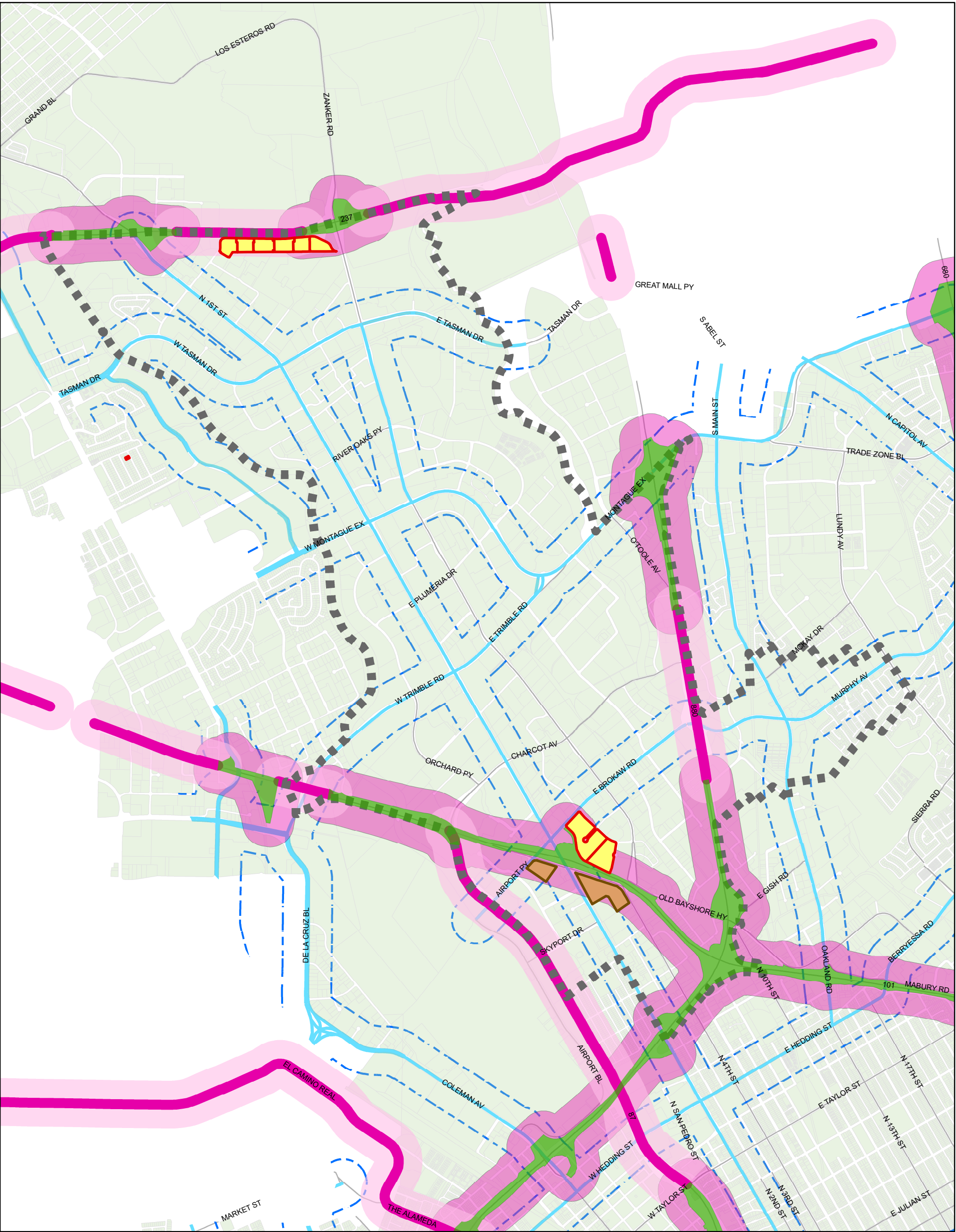
E. Other Provisions.

- 1. A Business Center Sign may include a Programmable Electronic Sign that does not exceed seventy-five percent (75%) of the total Sign Area and is integrated with the total Sign to form a cohesive design unit. In no case shall a Programmable Electronic Sign exceed three hundred and seventy-five (375) square feet in area.
- 2. The illuminated face of any Business Center Sign shall be oriented towards the Freeway and shall be oriented away from nearby residential dwelling units to the maximum extent feasible.
- 3. Any Programmable Electronic Sign shall conform to the requirements of Section 23.02.905.
- 4. No Business Center Sign shall be allowed within one hundred (100) feet of the edge of a Riparian Corridor.
- 5. No Business Center Sign that is visible from a Riparian Corridor shall be illuminated between 12:01 a.m. and 5:59 a.m.
- 6. A Business Center Sign located within the Airport Influence Area:
 - i. Shall utilize automatic dimming technology as specified in Section 23.02.905.F.

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- ii. Any application for a Business Center Sign shall include the following information in addition to any other information that the Director may require: evidence of Federal Aviation Administration (FAA) “no hazard” determination where the Sign is subject to Title 49 Code of Federal Regulations Part 77, and a lighting study to determine appropriate lighting standards for Signs within an Airport Influence Area.
 - iii. Either a ceilograph machine (a mechanism which tracks cloud bases, measures fog and can be tied into the Sign dimming system) shall be provided to activate automatic dimming based on cloud cover or fog level, or a contact person shall be available by telephone at all times and able to respond onsite to activate automatic dimming technology as directed by the airport control tower.
- 7. Notwithstanding the provisions of Section 23.02.1300.C, a Business Center Sign shall require approval of a development permit.
- 8. Notwithstanding the provisions of Section 23.02.1010.A.9, a Business Center Sign may face and be visible from a Freeway.
- 9. Sign Base:
 - (a) All Business Center signs that are Freestanding Monument Signs shall have a base of at least eighteen (18) inches in height. The height to the top of the base shall not be more than twenty (20) feet above Grade.
 - (b) The base shall be architecturally consistent with the main building of the Parcel and the Business Center Sign it supports. The base shall be constructed of durable materials to reduce the likelihood of unsightly Signs and blighted conditions.
 - (c) Landscaping shall be in accordance with Section 23.04.030.F.

Business Center Signs: North San Jose Development Policy Area



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|  Potential parcels_Entertainment |  North San Jose Sign Area Boundary |
|  Potential parcels_Business Center |  Freeway Landscaped Area |
|  Principal Arterials |  Freeway Landscaped Buffered |
|  Principal Arterials Buffered |  Freeway Non-Landscaped Area Penalty Buffered |

ILLUSTRATIVE ONLY
NOT TO BE USED FOR ANY LEGAL PURPOSE
Map is a snapshot in time that reflects best available data as of July 18, 2018

