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August 13, 2019

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

REPORT RELATIVE TO CITYWIDE SIGN REGULATIONS; CF 11-1705

On May 28, 2019, the Planning and Land Use Management Committee (PLUM) considered reports from the Department of City Planning (DCP) and the Office of the Chief Legislative Analyst on citywide sign regulations. During the discussion, the PLUM Committee continued the matter and instructed the DCP to prepare a report addressing the following items:

1. Revisit the ability to establish broad findings to allow for the maximum amount of discretion by the Council.
2. Discuss what an opt-in provision would look like.
3. Provide options for potential ordinance language related to an opt-in system for allowing relocation agreements by Council District and/or Community Plan area.
4. Discuss categories for sign districts that would allow for the narrowing of the designation.
5. Come up with categories in defining blight, including zones that may have a concentration of blighted conditions and would be a priority for taking down billboards.
6. Prioritize in-lieu fees where higher concentration of billboard blight exists.
7. Discuss expanding penalties to property owners that allow unpermitted illegal signs.
8. Discuss the agreement between the sign owner and the City and give the City more discretionary authority in determining which signs are taken down.

9. Explore the following two options:
 - a) A time period where we only allow billboards on public property, followed by a time period of 20 years where we allow billboards on public and private property; and
 - b) Study an option based on the ratio of private property square footage to public property square footage.
10. Discuss equity for smaller businesses in advertising.
11. Discuss hand-painted signage where it is both advertising and art, tied to a specific business. Specifically, discuss whether the hand-painted sign is considered a mural or a sign, and whether any limitations are placed on it, such as whether the content is limited to promotion of the business; and whether the fine arts mural Ordinance relates to this.
12. Discuss the phasing in or consideration of digital signs, off-site signs in areas meeting the definition for public, either in time or ratio.
13. Given the current citywide overlays based on zones and sign districts, discuss whether there are other options somewhere in the middle.

This report presents the following discussion addressing the items above.

MAXIMIZING CITY COUNCIL DISCRETION (Addressing PLUM Instruction Nos. 1 and 8)

The December 2017 draft ordinance would establish a relocation agreement process in which the City Council acts as the initial decision-maker. As currently drafted, this process allows for limited City Council discretion over the use of relocation agreements, with the Council having the ability to approve or deny a relocation agreement based on whether a relocated sign is compatible with its surrounding environment and whether the relocated sign would have any adverse effects.

Due to the quasi-judicial nature of the proposed relocation agreement process and the First Amendment implications of sign regulation and permitting, it is recommended that any bargaining or negotiation be minimized and that sign reduction requirements be established through legislation. However, the Council could exercise more discretion by setting up a legislative process for allowing the relocation of off-site signs outside of sign districts. These recommendations are explained in more detail below.

As currently drafted, the relocation agreement process would be a quasi-judicial land use action, requiring rules and policies to be established in advance, with clear choices for the applicant and the decision-maker. This type of action has important differences from other types of planning and land use decisions. Table 1 summarizes the differences between legislative, quasi-judicial and ministerial land use actions.

**Table 1
 Comparison of Land Use Actions**

Legislative Actions	Quasi-judicial Actions	Ministerial Actions
Discretionary	Discretionary	Non-discretionary
Creating policy – General Plan Amendments, Zone Changes, Zoning Code amendments, etc.	Applying discretionary policy to individual projects – Conditional Use Permits, Zone Variances, etc.	Applying non-discretionary policy to individual projects – building permits, other permits where necessary conditions are met
Example: creation of Sign District	Example: approval of relocation agreement	Example: by-right sign permit
Only baseline findings required	Additional specific findings required	Findings not required
Can only be approved by legislative body (<i>i.e.</i> , City Council)	Can be approved by CPC, APC, Zoning Administrator, Director; City Council decides some appeals, but could also act as initial decision-maker if specified by ordinance	Approved by staff

In *legislative* actions, the Council is creating policy and is thus less constrained in its discretion. The Council must follow State and Federal law and observe constitutional limits on government regulation, but does not need to tie its decision to specific findings beyond the baseline findings required for all legislative land use actions under the Zoning Code (General Plan consistency, conformance with public convenience, necessity, and welfare and good zoning practice). The decision-maker in a *quasi-judicial* action can exercise discretion, but only within the confines of existing policy and specific findings which facilitate orderly analysis and provide a record of the decision-maker's reasoning. *Ministerial* actions allow no discretion and are limited to the application of clear, objective criteria to each individual project.

Any bargaining or negotiation in a quasi-judicial context must be minimized, particularly in light of First Amendment implications of signs as protected speech. A sign company should propose a specific location and a specific mix of sign reduction vs. in-lieu fees, which the Council should approve or disapprove based on discrete, concrete criteria such as the sign's compatibility with and potential adverse effects on the surrounding environment. The relocation agreement process included in the December 2017 draft ordinance, which follows this approach, ensures that decisions on relocation agreements remain neutral toward the sign content and the sign owner, as well as adhering to valid time, place and manner restrictions on speech. This approach is consistent with the sign permitting criteria in the city of Lake Oswego, Oregon that were upheld in federal circuit court [*GK Ltd. Travel v. City of Lake Oswego*, 436 F.3d 1064].

A legislative process, rather than a quasi-judicial process, would provide the City Council with a greater level of discretion for the approval of relocated off-site signs. Such a process could take the form of a Tier 3 Sign District, eligible to be established only within certain zones and/or General Plan land use designations, and subject to sign reduction and in-lieu fee requirements similar to

those contemplated for the relocation agreement process provided in the December 2017 draft ordinance.

With this approach, the ordinance would authorize the establishment of Tier 3 Sign Districts subject to the above criteria. The City Council would establish each individual Tier 3 Sign District legislatively and would set additional rules and the geographic boundaries for each Sign District as part of its establishment.

OPT-IN OPTION (Addressing PLUM Instruction Nos. 2 and 3)

As discussed in the Department's May 2019 report, any decisions regarding the specific geographies to which off-site signs may be relocated should be made legislatively, *i.e.*, by ordinance. If, at a later date, the City Council wanted to modify the geographic extent of the eligible areas, it would need to consider and adopt further legislation to that effect. This approach is consistent with how the matter of a geographic opt-in was addressed in the 2014 amendment to the City's Original Art Mural regulations (Ordinance No. 182825), which specify the Council Districts where murals are eligible to be placed on lots developed with single-family homes.

The specific geographies identified as eligible to receive relocated off-site signs should be supported by an underlying rationale for why such signs are more appropriate in those areas. Examples of possible distinguishing characteristics include land use patterns, population characteristics, types of businesses present in the area, and historical prevalence of off-site signs compared to other parts of the City.

Geographic units

The opt-in provision would need to specify the geographic units for determining where off-site signs outside of Sign Districts would be allowed. The following are possible options for geographic units:

- Community Plan Areas (35 total) allow for the preferences of individual communities to be better reflected, as the boundaries have been drawn according to physical divisions between communities such as freeways, railways, waterways and major streets. Boundary changes are rare, requiring less frequent follow-up legislation to update. Community Plan Areas also vary widely with respect to population.
- Area Planning Commission boundaries (7 total) are permanent and would not need to be updated; however, they are larger than both Community Plan Areas and Council Districts. They also vary with respect to population.
- Council Districts (15 total) are roughly equal in population and would allow the ordinance to reflect the preference of each Councilmember regarding allowing off-site signs outside of Sign Districts in the communities the Councilmember represents. However, Council Districts are large compared to Community Plan Areas and may not capture differing preferences across multiple communities. Council District boundaries also are typically adjusted after each decennial Census, potentially resulting in some neighborhoods that do or do not allow off-site signs outside of Sign Districts being represented by Councilmembers who have the opposite preference until the Council updates the opt-in provision in subsequent legislation.

- In addition to the above options, the opt-in provision could specify a different, yet-to-be-defined geographic unit. This option likely would require further development and study depending on which criteria are prioritized.

Opt-out provision

Alternatively, the ordinance could specify the Community Plan areas, Area Planning Commission areas, Council Districts, or other geographic units, where off-site signs outside of Sign Districts are prohibited, with any areas not named allowing such signs.

Sample Code Language

The opt-in/opt-out provision would be inserted as Subdivision 8 of Subsection D of new Section 14.4.25 of the LAMC. Sample language is provided below.

The opt-in provision would read as follows, with the specific geographies where off-site signs outside of Sign Districts are allowed or prohibited specified by the Council:

- “8. An existing off-site sign may only be relocated to a lot within the boundaries of the following [Community Plan Areas/Area Planning Commissions/Council Districts/other geographic units]: __, __, __ or __.”

The opt-out provision would read as follows, with the specific Council Districts where off-site signs outside of Sign Districts are prohibited specified by the Council:

- “8. An existing off-site sign may not be relocated to a lot within the boundaries of the following [Community Plan Areas/Area Planning Commissions/Council Districts/other geographic units]: __, __, __ or __.”

ALTERNATIVE APPROACHES TO SITING OFF-SITE SIGNS (Addressing PLUM Instruction Nos. 4 and 13)

Currently, off-site signs are prohibited except when permitted by a specific plan, development agreement, or a supplemental use district such as a Sign District. Sign Districts may be established with minimum area requirements in a C or M zone, or in an R5 zone within certain General Plan land use designations, or a redevelopment project area.

The December 2017 draft ordinance would restrict off-site signs to Tier 1 and Tier 2 Sign Districts. Tier 1 Sign Districts would be restricted to C or R5 zones within certain General Plan land use designations, or areas meeting unique requirements; Tier 2 Sign Districts would be allowed in any zone other than PF or OS, but would be restricted to nonresidential development meeting minimum acreage thresholds, in addition to other requirements. Off-site signs would be allowed in Tier 1 Sign Districts if a minimum sign reduction requirement is met and applicable community benefit measures are implemented, and in Tier 2 Sign Districts if the signs are not visible from the public right-of-way and surrounding properties.

The draft ordinance would also allow off-site signs outside of Sign Districts through a new relocation agreement program, with a sign reduction clause and an in-lieu fee option. Relocation

agreements would only be eligible for relocation of off-site signs to properties zoned C, M or PF that are within General Plan land use designations of “Regional Center Commercial”, “Regional Commercial”, “General Commercial”, “Highway Oriented Commercial”, “Community Commercial” “Industrial”, or “Public Facilities”, and the sign placement would be further restricted by additional location criteria including minimum distancing requirements from sensitive uses. Existing off-site signs would be allowed to “relocate” to their current locations as a means of allowing the conversion of a display from static to digital, or modernizing or upgrading a dilapidated sign structure.

Off-site sign location eligibility could be narrowed from the Dec 2017 draft ordinance through one or more of the following options:

Further limit where off-site signs are eligible to relocate outside of Sign Districts.

- Option 1. Limit the relocation of off-site signs to their current locations only.
- Option 2. Limit the relocation of off-site signs to C Zones only within General Plan land use designations of “Regional Center Commercial” or “Regional Commercial”, while continuing to allow the relocation of off-site signs to PF Zones (but not M Zones).
- Option 3. Limit the relocation of off-site signs to major intersections of streets designated Avenue III and above (previously referred to as Secondary Highways, minimum public right-of-way of 72 feet) with a reduced spacing requirement to allow signs to be clustered at the intersections.
- Option 4. Limit the relocation of off-site signs to C2 and C5 Zones (instead of all C Zones) within Height Districts 2-4, while continuing to allow the relocation of off-site signs to PF Zones (but not M Zones).

CR, C1, C1.5, C4, and CM Zones all limit commercial uses in comparison to C2 and C5 Zones, which allow for the widest range of commercial uses. PF Zones allow for public-private partnerships for outdoor advertising. M Zones are intended primarily for manufacturing uses.

Height district designations, represented as a suffix on the zone ranging from 1 to 4, regulate height, stories, and Floor Area Ratio (FAR). Height Districts 2-4 for the C Zones allow FAR maximums between 6:1 and 13:1, while Height District 1 restricts the allowable FAR to 1.5:1.

C2 and C5 Zones in combination with Heights Districts 2-4 allow for a higher intensity of development and lend themselves to the creation of vibrant, commercial areas. Given these factors, this option would only allow off-site signs to relocate in C2 and C5 Zones in Height Districts 2-4 as these are the designations where it is most appropriate to have off-site signs, based on their ability to contribute to hubs of commerce, culture, and entertainment. Further, off-site signs would still be allowed to relocate in PF Zones in order to facilitate their placement on publicly-owned property.

Option 5. Impose an overall cap on off-site signs relocated outside of Sign Districts as a standalone option or in combination with one of the other options described above to curtail the proliferation of off-site signs and provide greater certainty to the program's outcome. A cap of 150 signs was previously referenced in a joint report from DCP and other departments to PLUM dated August 19, 2016.

Prohibit off-site signs outside of Sign Districts, while expanding Sign District location eligibility.

Option 6. Expand Tier 1 Sign Districts to also be allowed in PF Zones.

Option 7. Create a Tier 3 Sign District in which off-site signs would be allowed to relocate, as introduced on page 3 under the heading **MAXIMIZING CITY COUNCIL DISCRETION**. As described in that section, Tier 3 Sign Districts would be limited to certain zones and/or General Plan land use designations beyond those allowed in Tier 1 Sign Districts, and subject to sign reduction and in-lieu fee requirements. For example, a Tier 3 Sign District could be eligible to locate to areas designated as Commercial in the General Plan and within a certain distance from transit nodes or major intersections.

BILLBOARD BLIGHT (Addressing PLUM Instruction Nos. 5 and 6)

Defining billboard blight

The terms "billboard" and "off-site sign" are used interchangeably in this discussion.

There is no official definition or objective measure for billboard blight, as it is dependent on aesthetic preferences and priorities. However, more generally, a blighted area is defined in California State Health and Safety Code Sec. 33030-33039 for the purpose of community redevelopment. The definition describes a predominately urbanized area with a combination of physical blight and economic blight conditions that cause a serious physical and economic burden. Those conditions are mostly associated with health, safety and economic viability.

As another example, for the purpose of identifying nuisances, the City of Davis' Zoning Code defines visual blight as any unreasonable, nonpermitted or unlawful condition or use of real property, premises or of building exteriors which by reason of its appearance as viewed from the public right-of-way, is detrimental to the property of others or to the value of property of others, offensive to the senses, or reduces the aesthetic appearance of the neighborhood.

For the purpose of identifying where sign reduction should be prioritized, off-site signs that are under-maintained, in disrepair, dilapidated, or deemed to be nuisances could be regarded as billboard blight. However, these characteristics are not objectively documented, and as a result, are difficult to quantify. Identification of billboard blight based on these characteristics would require judgement on a case-by-case basis and might be considered a violation of the First Amendment due to lack of objective criteria.

DCP recommends a more objective approach to defining billboard blight as the following:

- an overconcentration (see below) of off-site signs outside of Sign Districts, and/ or
- any off-site sign in a residentially-zoned area.

Overconcentration

Concentration of off-site signs within a certain geographic unit could be calculated by either the total number of off-site signs or total sign area divided by the area of the geographic unit. Census Tracts are recommended as the geographic unit from which to calculate concentration of off-site signs as they are fine-grained enough to pinpoint concentration within the City. A Census Tract with a concentration level above a pre-determined threshold would be considered a billboard-blighted area.

Off-site Signs in Residential Zones

A residentially zoned lot would be considered a billboard-blighted area if there is an off-site sign located on the lot.

Prioritizing billboard-blighted areas for sign reduction

As part of the relocation agreement program, a minimum quantity or percentage of sign reduction could be required to occur within billboard-blighted areas. For example, at least 50 percent of the sign reduction could be required in billboard-blighted areas, while the remainder of the sign reduction could be allowed in non-billboard-blighted areas.

The prioritization of billboard-blighted areas for sign reduction could occur through two different approaches: 1) Sign reduction in billboard-blighted areas within the same Community Plan area within which the off-site sign is being relocated. If no billboard-blighted areas are identified in that Community Plan area, sign reduction could occur in billboard-blighted areas located in an abutting Community Plan areas, perhaps the one closest to the relocated sign. 2) Alternatively, to provide more flexibility, sign reduction in billboard-blighted areas in any blighted areas identified within the City.

In-lieu fees

The December 2017 draft ordinance requires a minimum off-site sign reduction of 9:1 (9 square feet of existing off-site sign removal for every 1 square foot added) as a component of a relocation agreement. Sign reduction less than 9:1 (but not less than 2:1) is permitted if an in-lieu fee is paid. If off-site sign reduction is prioritized in billboard-blighted areas, such reduction would also be eligible for this in-lieu fee option. The in-lieu fees required in place of sign reduction in billboard-blighted areas could also be increased to encourage sign reduction.

PENALTIES FOR OFF-SITE SIGN VIOLATIONS (Addressing PLUM Instruction No. 7)

Currently, violation of any sign regulation is subject to the code violation inspection, noncompliance, investigation and modification fees pursuant to Sections 98.0421, 98.0411, 98.0402 and 98.0403.1 of the Los Angeles Municipal Code (LAMC). Those fees were set as cost

recovery, not penalties. Additional late fees can be assessed. If the violation is not corrected within a specified timeframe, the case can be adjudicated in court.

The Dec 2017 draft ordinance provided a new section for civil administrative penalties for off-site sign violations based on the size of the sign and number of violations (see Table 2 below). The new fines were proposed to replace any other administrative or judicial remedies in the Code and would help further deter sign violations. Staff recommends adding an annual inflation adjustment to the penalties in the Dec 2017 draft ordinance.

**Table 2
 Proposed Civil Administrative Penalties for Off-site Sign Violations
 (December 2017 Draft Ordinance)**

Sign Area of Off-Site Sign in Violation	Civil Penalties Per Day of Violation		
	1 st Violation	2 nd Violation	3 rd Violation & All Subsequent Violations
Less than 150 square feet	\$2,000	\$4,000	\$8,000
150 to less than 300 square feet	\$4,000	\$8,000	\$16,000
300 to less than 450 square feet	\$6,000	\$12,000	\$24,000
450 to less than 600 square feet	\$8,000	\$16,000	\$32,000
600 to less than 750 square feet	\$10,000	\$20,000	\$40,000
750 or more square feet	\$12,000	\$24,000	\$48,000

RELOCATION OF OFF-SITE SIGNS: PUBLIC VS PRIVATE PROPERTY (Addressing PLUM Instruction Nos 9 and 12)

The Department’s May 2019 report detailed options for a public-only relocation agreement process in which new off-site signs would be limited to City-owned sites, ensuring that these sites generate direct payments and/or public benefits to the City. However, this limitation could result in less sign reduction overall, since the much larger catalogue of privately-owned sites would not be eligible for new off-site signs.

The ordinance could address these challenges in a variety of ways, such as including publicly-owned sites other than those owned by the City, establishing an exclusive time frame in which relocated signs must be placed on publicly-owned sites, imposing a maximum ratio of relocated signs to be placed on privately-owned vs. publicly-owned sites, and capping the overall number of relocated digital sign faces. These approaches are detailed below.

Other publicly-owned sites

The ordinance could include other publicly-owned sites in the catalogue of publicly-owned sites that would be given priority. This would allow for the possibility of partnerships between the City and other public agencies that own sites that are potentially suitable for off-site signs. In particular, sites owned by the Los Angeles County Metropolitan Transportation Authority (Metro) typically

represent high-value advertising opportunities, as many Metro properties have been acquired for the purpose of rail station construction at busy intersections surrounded by commercial uses.

Requirement for relocated signs to be placed on publicly-owned sites

The ordinance could combine the benefits of both public and private site ownership by requiring some relocated signs to be placed on publicly-owned sites before privately owned sites become eligible. This could be accomplished via one of several methods: a) establishing an initial time frame in which only publicly-owned sites are eligible, after which privately owned sites become eligible; b) establishing a minimum ratio of new off-site signs on publicly-owned versus privately owned sites. Under both options, the portfolio of publicly-owned sites for potential new off-site signs would be allocated via one of the bid solicitation methods outlined in the Department's May 2019 report.

Exclusive time frame for publicly-owned sites

The ordinance could establish an initial time frame during which companies that enter into relocation agreements would be limited to erecting relocated off-site signs exclusively on certain publicly-owned sites. This option could increase competition among sign companies because the opportunities for relocated off-site signs outside of Sign Districts would be more limited. This could in turn enhance these sites' revenue and public benefit potential. Additionally, this option would limit the relocation of off-site signs during this initial window, since a more limited number of sites would be available.

The potential sign reduction could be more limited during the initial window, due to the small number of publicly-owned sites compared to privately-owned sites that would otherwise be eligible to host relocated off-site signs. Any exclusive time frame would need to be long enough to allow adequate time for the portfolio of publicly-owned sites to begin generating revenue, but not so long that it unnecessarily delays the greater sign reduction from relocation agreements covering privately owned sites. Options for the initial time frame include five, seven, ten or 20 years.

Maximum ratio of privately-owned to publicly-owned sites

The ordinance could establish a maximum ratio of relocated off-site signs on privately-owned versus publicly-owned sites that would apply to each relocation agreement. This option would allow a sign company to begin erecting new off-site signs on privately-owned sites concurrently with publicly-owned sites.

The ratio could be measured in terms of sign area or number of signs. Additionally, a minimum size could be established for relocated signs on publicly-owned sites. The maximum sign area allowed on privately-owned sites in relation to publicly-owned sites could be set at 4:1, 1:1, or some other ratio.

This option has the potential to result in more sign reduction in the initial years of the program than the exclusive time frame option, since the much larger portfolio of privately-owned sites would be eligible for relocated off-site signs almost immediately. Due to the

greater availability of privately-owned sites, competition for access to publicly-owned sites could be lower than under the exclusive time frame option.

Overall cap on number of relocated off-site digital sign faces

The August 2016 inter-departmental report recommended a citywide cap on the number of new digital sign faces to protect against the proliferation of digital billboards and provide certainty to the overall program's outcome. That report referenced a cap of 150 sign faces.

EQUITY FOR SMALLER OUTDOOR ADVERTISING BUSINESSES (Addressing PLUM Instruction No. 10)

The December 2017 draft ordinance takes into account the circumstances of smaller outdoor advertising businesses that may have a limited inventory of existing off-site signs. The draft ordinance includes the option for outdoor advertising companies to pay an in-lieu fee that will reduce the required sign reduction ratio to as little as 2:1, allowing companies flexibility in choosing whether to remove existing off-site signs or pay the fee. This provision preserves opportunities for smaller sign companies to relocate off-site signs without exhausting their inventory of existing off-site signs, or having to acquire existing off-site signs for the purpose of satisfying sign reduction requirements.

MURAL SIGNS (Addressing PLUM Instruction No. 11)

The Mural Ordinance (Ordinance No. 182706) adopted in 2013, was intended to distinguish murals from signs and promote public art. The ordinance established that artwork hand-painted on the walls of a building is a mural if it does not contain any commercial message; if a commercial message is included, then it is a sign and is subject to applicable sign regulations. For example, a hand-painted original artwork containing a commercial message would be considered a sign.

Murals are required to comply with specific location, height and illumination restrictions, and a minimum time period it must remain in place without alteration. Sponsorship of a mural is currently permitted if there is no commercial message in the mural. Whether or not a sponsor's name is allowed is decided by Department of Cultural Affairs on a case-by-case basis.

Should you have any questions regarding this report, please contact Phyllis Nathanson of my staff at (213) 978-1474.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



Kevin J. Keller, AICP
Executive Officer

VPB:KJK:ALV:TR:PN