



Land Use Appeals Board Reagan Outdoor Advertising #19-001

REPORT SUMMARY...

<i>Project Name:</i>	Reagan Outdoor Billboard Sign Relocation
<i>Appellant:</i>	Breeze Stringham
<i>Project Address:</i>	20 West 600 South
<i>Request:</i>	Appeal
<i>Current Zoning:</i>	Mixed Use (MU)
<i>Type of Action:</i>	Quasi-Judicial
<i>Date of Hearing:</i>	November 14, 2019
<i>Submitted By:</i>	Russ Holley, Senior Planner

RECOMMENDATION

Staff recommends that the Land Use Appeals Board **deny** an appeal request for project #19-001, Reagan Outdoor Billboard Sign Relocation, for the property located at 20 West 600 South, TIN# 02-063-0009.

INTRODUCTION

This appeal to the Logan City Land Use Appeals Board (LUAP) is to determine whether the Logan City Community Development Department (City) acted appropriately and was justified in their denial of the Reagan Outdoor Advertising (ROA) sign permit application to relocate an existing billboard on a property located at approximately 1120 South Highway (HWY) 89/91 to a property located at 20 West 600 South. The triangular shaped 0.18-acre property located at 20 West 600 South is currently zoned Mixed Use and contains a home that was built in 1955 and later converted to a triplex in 1980. The occupied triplex is located near the west boundary of the property with the Logan River running along the south boundary and 600 South Street positioned along the north boundary. The sign permit application to relocate the existing billboard was submitted by ROA to the City on September 24, 2019 and the official denial of the permit application from the City to ROA was sent on October 9, 2019. The current billboard lease at the vacant property located at 1120 South HWY 89/91 is nearing expiration and it has been indicated that the property owner at that location does not wish to renew. The current billboard at 1120 South HWY 89/91 has a sign advertising face of 12 feet tall by 24 feet wide, is approximately 28 feet tall to the top of the billboard and is setback approximately 22' feet from the HWY 89/91 property line.

UTAH STATE LAW

The Utah State Code, as per 10-9a-513, allows a billboard owner to relocate into a commercial, industrial or manufacturing zone within 5,280 feet (one mile) from the previous location and no closer than 300 feet from an existing off-premise sign. Height, for a non-interstate billboard, is limited to the existing structure height or a height that makes the entire advertisement clearly visible, whichever is higher, but not higher than 45 feet. "Clearly visible" is defined as capable of being read without obstruction by an occupant of a vehicle traveling on a street within 300 feet of the billboard on a non-interstate road.

SIGN PERMIT APPLICATION

On September 24, 2019 Logan City Community Development Department received a sign permit application from ROA to relocate a billboard from 1120 South HWY 89/91 to 20 West 600 South. Ezra J. Nixon III, the property owner of record, signed the permit application. The sign permit application included engineering calculations, a picture of the existing billboard and a site plan for the proposed relocation. The site plan indicated a proposed location for the billboard

with highlighted dimensions of 10 feet from Main Street and 20 feet from 600 South. The site plan shows the 10-foot setback from Main Street at the edge of the sidewalk along the bridge and not at the indicated property line (yellow line) on the submitted site plan. From the yellow property line, the proposed billboard is approximately 4 feet away. The site plan indicates the billboard relocation approximately 5 feet away from the north top-bank of the Logan River. The parcel identified is #02-063-0009, a property located at 20 West 600 South and within the Logan City Mixed Use (MU) zoning district. This same property currently contains an off-premise sign near the east boundary that is approximately 16 feet tall with a double-sided sign face of approximately 3 feet by 6 feet. The sign advertises for Century 21 Real Estate. This existing off-premise sign (Century 21 Real Estate sign) was not indicated or described anywhere on the site plan or sign permit application.

LOGAN CITY LAND DEVELOPMENT CODE

The Logan City Land Development Code (LDC) regulates outdoor signage throughout the City of Logan. Based on the zoning district, sign size, placement, type and quantities are all specifically regulated accordingly. LDC 17.33.140.B prohibits any new off-premise signs except where specifically allowed in the chapter. Temporary real estate open house signs and community special-event banners are some examples of currently allowed off-premise signs in Logan City. The LDC explicitly prohibits new permanent commercial off-premise signage (pole signs, monument signs, wall signs, etc.). Pole signs are only allowed in the Commercial (COM) zoning district within Logan City and shall have a minimum 10-foot setback from property lines. Pole sign setbacks have been consistently measured from the edge of the sign nearest to the property line, as per LDC 17.33.050, not the pole(s) base location.

The LDC 17.24.060 regulates development activity in Riparian Areas within Logan City. This section states that all structures shall maintain a 25-foot setback from the river/stream top-bank, with the exception of bridges, docks, viewing platforms and public recreational facilities. Structures are defined as being that which is built and taller than 30 inches in height. For example, a paved surface parking lot would not constitute a structure and therefore not subject to setback requirements. Logan City has consistently enforced this setback requirement for structures, including but not limited to, new homes, new commercial buildings, sheds and other accessory structures taller than 30 inches.

LOGAN CITY DENIAL

On October 9, 2019, the City officially denied the ROA sign permit application for the following reasons. The submitted sign permit application and the associated site plan shows the proposed billboard location approximately 25 feet away from the existing Century 21 Real Estate sign, a location that is not in compliance with State Code requirements of at least 300 feet away from an existing off-premise sign. Nowhere on the submitted sign permit application and the associated paperwork did ROA indicate that the existing off-premise Century 21 Real Estate sign would be removed.

The proposed location of the billboard at 20 West 600 South is shown approximately 4 feet from the Main Street property line, 20 feet away from the 600 South property line and 5 feet away from the north top bank of the Logan River. The LDC requires pole signs to have a minimum setback of 10 feet away from property lines and structures to shall have a minimum setback of 25 feet from the top bank of rivers/streams. As submitted with the proposed billboard location it does not comply with LDC minimum 10-foot setbacks for signs and 25-foot riparian setback for structures. Nowhere on the submitted sign permit application and the associated paperwork did ROA indicate or suggest that the proposed billboard may be moved to a location that is in compliance with both sign and riparian setback requirements.

The proposed location of the billboard at 20 West 600 South is within the Logan City MU zoning district with the current land use of the property being a residential triplex. The State Code allows billboards to relocate into a commercial, industrial or manufacturing zone. MU zoning is

not specifically indicated in the State Code as a permitted area to relocate a billboard. Logan City MU zoning requires a residential component for new MU developments, with higher allowance/proportions given for residential uses. For example, a 5-acre MU project could be permitted with 150 residential dwelling units with only the minimum of 2,500 SF of commercial space required. If these 150 dwelling units averaged 900 SF per apartment unit (a typical 2-bedroom unit), that would equate to 135,000 SF of residential space compared to only 2,500 SF of commercial space. Of the total building space within this example, 98% would be residential space and 2% would be commercial space. With these code allowances, future MU projects within Logan City will likely more residential in nature and character than commercial. Utah State Code only identifies commercial, industrial, and manufacturing zones as appropriate for billboard relocation sites, meaning other areas, including residential zones or zones that require residential development, would be considered inappropriate for billboard relocation.

APPELLANT RESPONSE

ROA makes counter arguments to the City's denial and informs the City that if they persist in the denial they must acquire the billboard proposed for relocation through eminent domain in accordance with Utah State Code 10-9a-513(2). ROA claims that the existing off-premise Century 21 Real Estate sign will be removed by the property owner prior to the billboard relocation. ROA claims the submitted site plan meets all applicable setback requirements. ROA references the LDC and the 10-foot setback requirement to a property line. ROA claims the City imposed an arbitrary and capricious requirement that the billboard be 25 feet from the top bank of the river. ROA claims that the only "structure" associated with a billboard is the base and further states that the billboard will not disturb the riparian area. ROA contends that setbacks for a sign should not be measured from the nearest edge of the sign. ROA opposes the City's interpretation that a billboard can only be relocated into a commercial, industrial or manufacturing zone and not into a MU zone. ROA claims the definition for commercial zones as areas intended for "business, commerce, or trade". ROA argues that the Logan City MU zone is clearly reserved for business, commerce or trade and reference approximately 45 commercial uses permitted in the MU zone.

CONCLUSIONS

The Land Use Appeals Board must determine if Logan City was justified and acted appropriately in denying the sign permit application submitted by ROA to relocate an existing billboard to 20 West 600 South. Logan City Staff finds that the denial was in fact justified because the submitted sign permit application and the associated paperwork did not meet State and Logan City development standards. The submitted site plan did not meet all applicable setbacks and no indications were given that adjustments would be made to the location of the proposed billboard. Staff did not act arbitrarily and capriciously when applying the riparian setback as that section of LDC is applicable to the Logan River and to this adjacently located property. Staff did not error in the interpretation of the LDC concerning pole sign setback measuring methods, as the LDC 17.33.050 clearly states that no part of the sign shall be inside the setback area. Staff argues the ROA claim that the billboard will have minimal disturbance to the existing riparian area because the proposed 35-foot tall billboard would require a 6-foot wide by 11-foot deep concrete footing and foundation. This type of concrete foundation would require extensive excavation with large equipment that would cause extensive damage to the existing trees and root systems. Furthermore, because the definition of "clearly visible" in State Code means unobstructed views by vehicle occupants within 300 feet, numerous trees and/or tree branches would be removed so that the sign could be visible to north-bound Main Street traffic. Finally, staff finds that the intent of the State Code limiting billboard relocations to commercial, industrial, or manufacturing zones (areas reserved for business, commerce or trade) was to mitigate the negative impacts billboards pose on adjacent residential properties, including but limited to, illumination levels, structure height and viewsheds. The City has not acted inappropriately in this denial because the submitted application clearly did not meet all applicable requirements and a decision was rendered in a timely manner (less than 180 days) and is therefore not obligated to acquire this billboard through eminent domain.

PUBLIC NOTIFICATION

Legal notices were published on 10/31/19 and were mailed to all property owners within 300 feet of the project site on 10/29/19.

RECOMMENDED FINDINGS FOR DENIAL

The Land Use Appeals Board bases its decisions on the following findings:

1. The submitted sign permit and site plan for a billboard relocation from 1120 South HWY 89/91 to 20 West 600 South did not meet the required state law of being at least 300 feet away from an existing off-premise sign.
2. The submitted sign permit and site plan for a billboard relocation from 1120 South HWY 89/91 to 20 West 600 South did not meet the Logan City setback requirements of 10 feet from a property line with the application clearly showing a location less than 10 feet away from the Main Street property line.
3. The submitted sign permit and site plan for a billboard relocation from 1120 South HWY 89/91 to 20 West 600 South did not meet the Logan City riparian 25-foot setback from the top bank of the Logan River.
4. The submitted sign permit for a billboard relocation from 1120 South HWY 89/91 to 20 West 600 South did not meet State Law requirement of locating the billboard in a commercial, industrial or manufacturing zone.
5. The subsequent written documentation associated with the appeals application assumes that these issues can be remedied through future actions, but Logan City sign permit approvals are not granted on subsequent assumptive future actions.

This staff report is an analysis of the application based on adopted city documents, standard city development practices, and available information. The report is to be used to review and consider the merits of the application prior to and during the course of the Planning Commission meeting. Additional information may be revealed by participants at the Planning Commission meeting which may modify the staff report and become the Certificate of Decision. The Director of Community Development reserves the right to supplement the material in the report with additional information at the Planning Commission meeting.

EXHIBIT A

UTAH STATE CODE

Effective 5/8/2018

10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt or replaced -- Validity of municipal permit after issuance of state permit.

(1) As used in this section:

- (a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.
- (b) "Highest allowable height" means:
 - (i) if the height allowed by the municipality, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the municipality; or
 - (ii) (A) for a noninterstate billboard:
 - (I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or
 - (II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and
 - (B) for an interstate billboard:
 - (I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or
 - (II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.
- (c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.
- (d) "Interstate height" means a height that is the higher of:
 - (i) 65 feet above the ground; and
 - (ii) 25 feet above the grade of the interstate.
- (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.
- (f) "Visibility area" means the area on a street or highway that is:
 - (i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
 - (ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - (A) perpendicular to the street or highway; and
 - (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or
 - (II) for a noninterstate billboard, 300 feet from the base of the billboard.

- (2) (a) If a billboard owner makes a written request to the municipality with jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard owner may take the requested action, without further municipal land use approval, 180 days after the day on which the billboard owner makes the written request, unless within the 180-day period the municipality:
 - (i) in an attempt to acquire the billboard and associated rights through eminent domain under Section 10-9a-512 for the purpose of terminating the billboard and associated rights:
 - (A) completes the procedural steps required under Title 78B, Chapter 6, Part 5, Eminent Domain, before the filing of an eminent domain action; and
 - (B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain;
 - (ii) denies the request in accordance with Subsection (2)(d); or
 - (iii) requires the billboard owner to remove the billboard in accordance with Subsection (3).

- (b) Subject to Subsection [\(2\)\(a\)](#), a billboard owner may:
 - (i) rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism;
 - (ii) relocate or rebuild a billboard structure, or take another measure, to correct a mistake in the placement or erection of a billboard for which the municipality issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;
 - (iii) structurally modify or upgrade a billboard;
 - (iv) relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is:
 - (A) within 5,280 feet of the billboard's previous location; and
 - (B) no closer than 300 feet from an off-premise sign existing on the same side of the street or highway, or if the street or highway is an interstate or limited access highway that is subject to [Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act](#), the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; or
 - (v) make one or more of the following modifications, as the billboard owner determines, to a billboard that is structurally altered by modification or upgrade under Subsection [\(2\)\(b\)\(iii\)](#), by relocation under Subsection [\(2\)\(b\)\(iv\)](#), or by any combination of these alterations:
 - (A) erect the billboard:
 - (I) to the highest allowable height; and
 - (II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; or
 - (B) install a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before the billboard's relocation.
- (c) A modification under Subsection [\(2\)\(b\)\(v\)](#) shall comply with [Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act](#), to the extent applicable.
- (d) A municipality may deny a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard without acquiring the billboard and associated rights through eminent domain under Section [10-9a-512](#), if the mistake in placement or erection of the billboard is determined by clear and convincing evidence, in a proceeding that protects the billboard owner's due process rights, to have resulted from an intentionally false or misleading statement:
 - (i) by the billboard applicant in the application; and
 - (ii) regarding the placement or erection of the billboard.
- (e) A municipality that acquires a billboard and associated rights through eminent domain under Section [10-9a-512](#) shall pay just compensation to the billboard owner in an amount that is:
 - (i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;
 - (ii) the value of any other right associated with the billboard;
 - (iii) the cost of the sign structure; and
 - (iv) damage to the economic unit described in Subsection [72-7-510\(3\)\(b\)](#), of which the billboard owner's interest is a part.
- (f) If a municipality commences an eminent domain action under Subsection [\(2\)\(a\)\(i\)](#):
 - (i) the provisions of Section [78B-6-510](#) do not apply; and
 - (ii) the municipality may not take possession of the billboard or the billboard's associated rights until:
 - (A) completion of all appeals of a judgment allowing the municipality to acquire the billboard and associated rights; and
 - (B) the billboard owner receives payment of just compensation, described in Subsection [\(2\)\(e\)](#).
- (g) Unless the eminent domain action is dismissed under Subsection [\(2\)\(h\)\(ii\)](#), a billboard owner may proceed, without further municipal land use approval, to take an action requested under Subsection [\(2\)\(a\)](#), if the municipality's eminent domain action commenced under Subsection [\(2\)\(a\)\(i\)](#) is dismissed without an order allowing the municipality to acquire the billboard and associated rights.
- (h) (i) A billboard owner may withdraw a request made under Subsection [\(2\)\(a\)](#) at any time before the municipality takes possession of the billboard or the billboard's associated rights in accordance with Subsection [\(2\)\(f\)\(ii\)](#).

- (ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i), the court shall dismiss the municipality's eminent domain action to acquire the billboard or associated rights.
- (3) Notwithstanding Section ~~10-9a-512~~, a municipality may require the owner of a billboard to remove the billboard without acquiring the billboard and associated rights through eminent domain if:
 - (a) the municipality determines:
 - (i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or
 - (ii) by substantial evidence that the billboard:
 - (A) is structurally unsafe;
 - (B) is in an unreasonable state of repair; or
 - (C) has been abandoned for at least 12 months;
 - (b) the municipality notifies the billboard owner in writing that the billboard owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);
 - (c) the billboard owner fails to remedy the condition or conditions within:
 - (i) 180 days after the day on which the billboard owner receives written notice under Subsection (3)(b); or
 - (ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, after the day on which the billboard owner receives written notice under Subsection (3)(b); and
 - (d) following the expiration of the applicable period under Subsection (3)(c) and after providing the billboard owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:
 - (i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or
 - (ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.
- (4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than the billboard's owner, or the billboard's owner acting through a contractor, within 500 feet of the nonconforming location.
- (5) A permit that a municipality issues, extends, or renews for a billboard remains valid beginning on the day on which the municipality issues, extends, or renews the permit and ending 180 days after the day on which a required state permit is issued for the billboard if:
 - (a) the billboard requires a state permit; and
 - (b) an application for the state permit is filed within 30 days after the day on which the municipality issues, extends, or renews a permit for the billboard.

Amended by Chapter 239, 2018 General Session

EXHIBIT B

LOGAN CITY LAND DEVELOPMENT CODE

17.24.060 Development Standards for Riparian Areas

All development within a Riparian Area shall comply with the following standards:

A. All structures shall maintain a 25' setback from the top of stream bank within a riparian area with the exception of bridges, docks, viewing platforms, public recreational amenities, or other similar features.

B. No more than 50% of the land area with the riparian area may be disturbed, including grading, clearing, grubbing, tree removal, etc. All disturbed areas shall be revegetated within 60 days of initial disturbance. Erosion control measures shall be implemented during all construction.

C. Trees larger than 12" dbh shall not be removed from a riparian area unless they are considered a hazard tree, diseased or dead.

D. Existing utilities may be maintained and/or replaced within a riparian area provided any disturbed areas are restored.

E. Additions, alterations, rehabilitation, or replacement of existing structures that do not increase the existing structural footprint in the Riparian Area are permitted provided the disturbed areas are restored using native vegetation.

F. Stream, wetland, riparian and upland enhancement or restoration projects are authorized under this Chapter.

G. Continuous and on-going farming practices, farm uses, and the pasturing of livestock are permitted within a riparian area. All new farming practices, farm uses, cultivation, livestock grazing and building construction shall be setback at least 25' from the top the stream bank.

H. Routine repair and maintenance of existing structures, roadways, driveways, utility facilities, accessory uses and other development are authorized under this Chapter.

I. Measures to remove or abate nuisances, or any other violation of State statute, administrative agency rule or City ordinance are authorized under this Chapter.

17.33: Signs

Table 17.33.030.B.2: Freestanding Signs in Non-Residential Zoning Districts

Sign Type	Zones	Area (s.f.)	Maximum Height (ft.)	Number	Setback (ft.) ²	Approval Type
Pole	COM only	48	14 (8.5 foot clearance)	1 per project (no monument signs allowed)	10	Staff
Monument	All	32 for all other zones, 72 for COM, UC, MU,	6 for all other zones, 8 for COM, UC, MU,	1 sign per street frontage. 1 additional sign per street per every 450 feet of	0, not in SDT 1	Staff

§17.33.050. Sign Placement

The following sign placement requirements shall apply:

A. All signs and sign structures shall be located completely within the boundaries of the lot on which the principal building or use is located;

B. No part of a pole sign shall be placed within 10 feet of an adjacent public or private right-of-way or property line;

EXHIBIT C



EXHIBIT D

Century 21 Real Estate Sign





APPLICATION FOR PROJECT REVIEW

☐ Planning Commission ☒ Land Use Appeal Board ☐ Administrative Review

Date Received 10.17.19	Received By DZ	Receipt Number	Zone MU	Application Number LUAB 19-001
Type of Application (Check all that apply): <input type="checkbox"/> Design Review <input type="checkbox"/> Conditional Use <input type="checkbox"/> Subdivision <input type="checkbox"/> Zone Change <input type="checkbox"/> Administrative Design Review <input type="checkbox"/> Code Amendment <input type="checkbox"/> Appeal <input type="checkbox"/> Variance <input type="checkbox"/> 4950' Design Review <input type="checkbox"/> Other _____				
PROJECT NAME Trace Nixon off-Promise Sign				
PROJECT ADDRESS 20W. 600 S. Logan, UT 84321			COUNTY PLAT TAX ID # 02-000-0000	
AUTHORIZED AGENT FOR PROPERTY OWNER (Must be accurate and complete) Reagan Outdoor (Breece Stringham)			MAIN PHONE # 801.870.6493	
MAILING ADDRESS 1775 Warm Springs RD		CITY SLC	STATE UT	ZIP 84116
EMAIL ADDRESS breece@reaganusa.com				
PROPERTY OWNER OF RECORD (Must be listed) E J III Nixon (Trace)			MAIN PHONE # 435.890.7222	
MAILING ADDRESS 150 E. 400 N.		CITY Logan	STATE UT	ZIP 84321
EMAIL ADDRESS jack@nixon1.com				
DESCRIBE THE PROPOSED PROJECT AS IT SHOULD BE PRESENTED (Include as much detail as possible - attach a separate sheet if needed)			Total Lot Size (acres)	
			Size of Proposed New Building (square feet)	
			Number of Proposed New Units/Lots	
- NO SITE ACTIVITY MAY OCCUR UNTIL AFTER APPROPRIATE COMMITTEE APPROVAL -				
I certify that the information contained in this application and all supporting plans are correct and accurate. I also certify that I am authorized to sign all further legal documents and permits on behalf of the property owner.		Signature of Property Owner's Authorized Agent 		
I certify that I am the property owner on record of the subject property and that I consent to the submittal of this project. I understand that all further legal documents and permits will be sent to my authorized agent listed above.		Signature of Property Owner 		



Reasons for Appeal:

By letter dated October 9, 2019, Logan City (the “City”) denied Reagan Outdoor Advertising’s (“ROA”) application to relocate an existing billboard to 20 West 600 South. The City outlined three reasons for its denial: (1) the relocated billboard would be closer than 300 feet from an existing off-premise sign; (2) the relocated billboard is within the 25-foot setback requirement for riparian areas; and (3) the proposed location is zoned MU, which is not a “commercial” zone.

See letter, attached hereto.

The City’s denial of ROA’s application is incorrect for the following reasons:

1. The City alleges that the relocated billboard will be closer than 300 feet from the existing Century 21 sign, but the Century 21 sign will be removed by the property owner prior to the billboard relocation. Therefore, the City’s reliance on Utah Code section 10-9a-513(2)(b)(iv)(B) is misplaced. The relocated billboard will not be within 300 feet of any other off-premise sign and the requested permit must be granted.

2. The site plan submitted with the permit application meets all applicable setback requirements. LDC §17.33.050 provides that no part of a pole sign shall be placed within 10 feet of a property line. The relocated billboard meets this requirement; however, the City has imposed an additional arbitrary and capricious requirement that all portions of the billboard must be setback at least 25 feet from the top of the stream bank. This interpretation is incorrect. The ordinance cited by the City only requires that “all structures” shall maintain a 25-foot setback from the top of the stream bank. Presumably, this ordinance was enacted to protect the physical ground adjoining the stream.¹ The only “structure” located on the surface of the riparian area is the billboard base. No other part of the riparian area will be disturbed. The sign faces are suspended high above the riparian area and there is no authority to support the City’s position that the 25-foot setback requirement in riparian areas extends upwards. Additionally, the City alleges, without citation, that setback requirements for signs are measured “from the nearest edge of the sign not the base pole” but ROA has not been able to locate any provision of the City’s ordinances to support this statement.

¹ This is consistent with the fact that the development standards for riparian areas only address use of the land area within the riparian areas (*e.g.* how much vegetation can be disturbed).



3. The City's interpretation that 10-9a-513(2)(b)(iv) limits relocation of the billboard to a zoning area expressly labeled "commercial" is incorrect. Utah Code section 72-7-502(3)(a) defines "commercial zone" as those areas within the boundaries of a city that are reserved for "business, commerce, or trade." The City's MU zone is clearly reserved for business, commerce, or trade. Pursuant to LDC §17.11.030, there are approximately 45 commercial uses that are permitted in the MU zone and therefore, it is a "commercial" zone as defined by 72-7-502(3)(a). ROA is not seeking permission to construct a mixed-use development that would require both commercial and residential components. Rather, ROA is seeking to relocate a billboard pursuant to a state statute that requires the City to permit the relocation.

4. If the City persists in its denial of the requested permit, it must attempt to acquire the billboard through eminent domain within 180 days of ROA's request to relocate. *See* Utah Code §10-9a-513(2). Otherwise, ROA may proceed with the relocation without the City's approval.

We appreciate your time in this matter and would like to work with the City of Logan in finding a mutual solution. We understand having to appeal is part of the process, we have worked well with other city's in the state and look forward to working with the City of Logan.

A handwritten signature in black ink, appearing to read "Breeze Stringham". The signature is fluid and cursive, with a large initial "B" and a long, sweeping horizontal stroke at the end.

Breeze Stringham
Site Administrator
breeze@reaganusa.com
801.870.6493

October 9, 2019

Breeze Stringham
Reagan Outdoor Advertising
1775 Warm Springs Rd
Salt Lake City, UT

Re: Billboard Relocation Application for 20 West 600 South Logan, Utah

Please consider this an official denial of the sign application submitted for a billboard relocation to 20 West 600 South in Logan Utah. The current location of the billboard is approximately 1200 South HWY 89/91 Billboard Permit #1-1046.

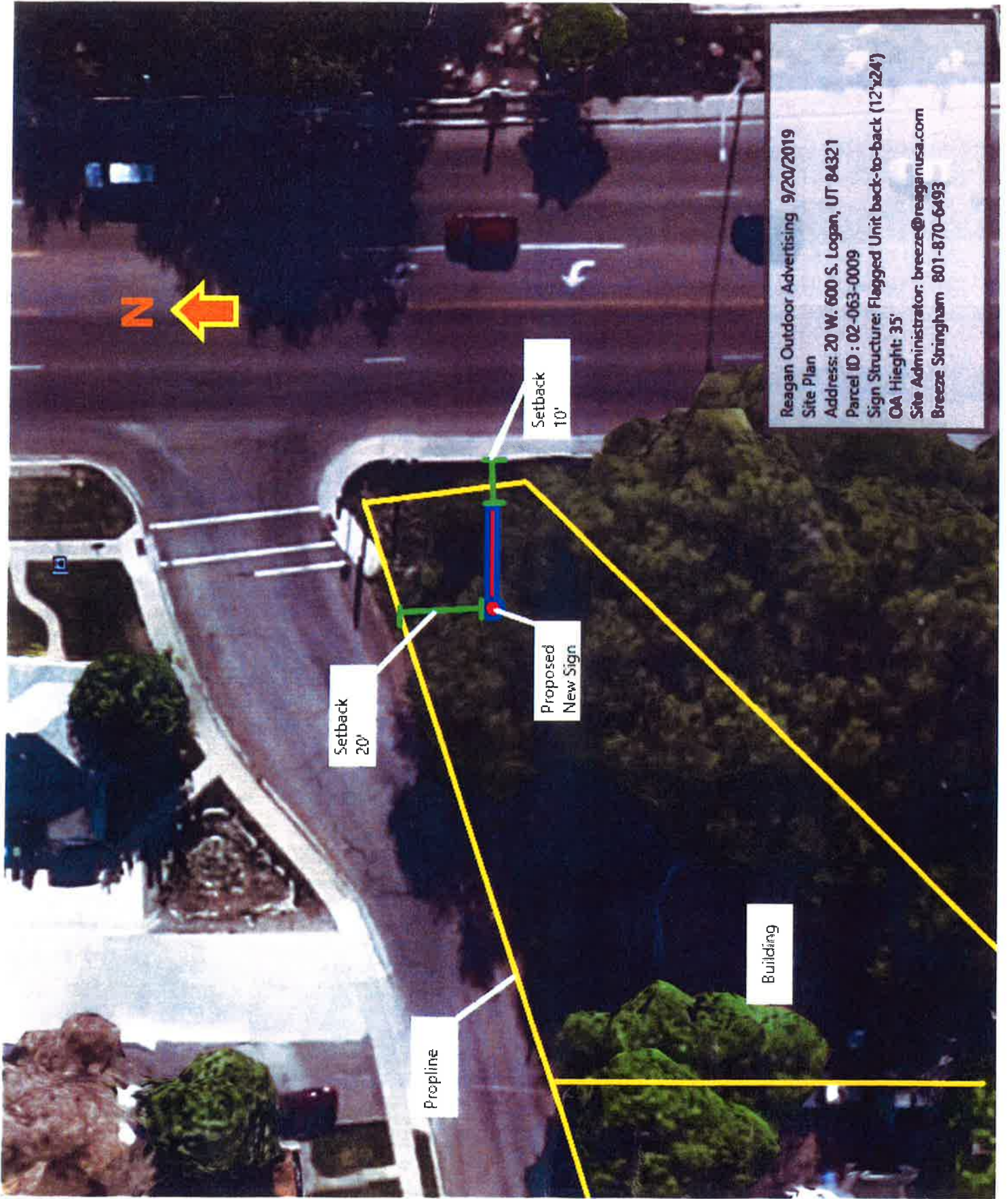
The reasons for staff's denial are as follows; as per Utah State Code 10-9a-513.2b.iv.B. a relocated billboard cannot be any closer than 300 feet from an existing off-premise sign. There is a Century 21 off-premise sign currently on this property located closer than 300 Feet. The Logan City Land Development Code (LDC) 17.24.060.A prohibits structures within a 25-foot setback of the top edge of the river bank. The proposed location indicated on the site plan in the submitted sign permit application is within the 25' setback area. For sign permits and sign structure setbacks, signs are measured from the nearest edge of the sign not the base pole(s). The Utah State Code 10-9a-513.2b.iv. indicates relocation zones as being "commercial, industrial, or manufacturing" and this property location is in a Mixed-Use (MU) zoning district that has mandatory residential uses for new developments.

If an appeal to this denial is desired, please follow the procedures and timelines outlined in the Logan City LDC 17.50 Appeals.

Sincerely,



Russ Holley
Senior Planner



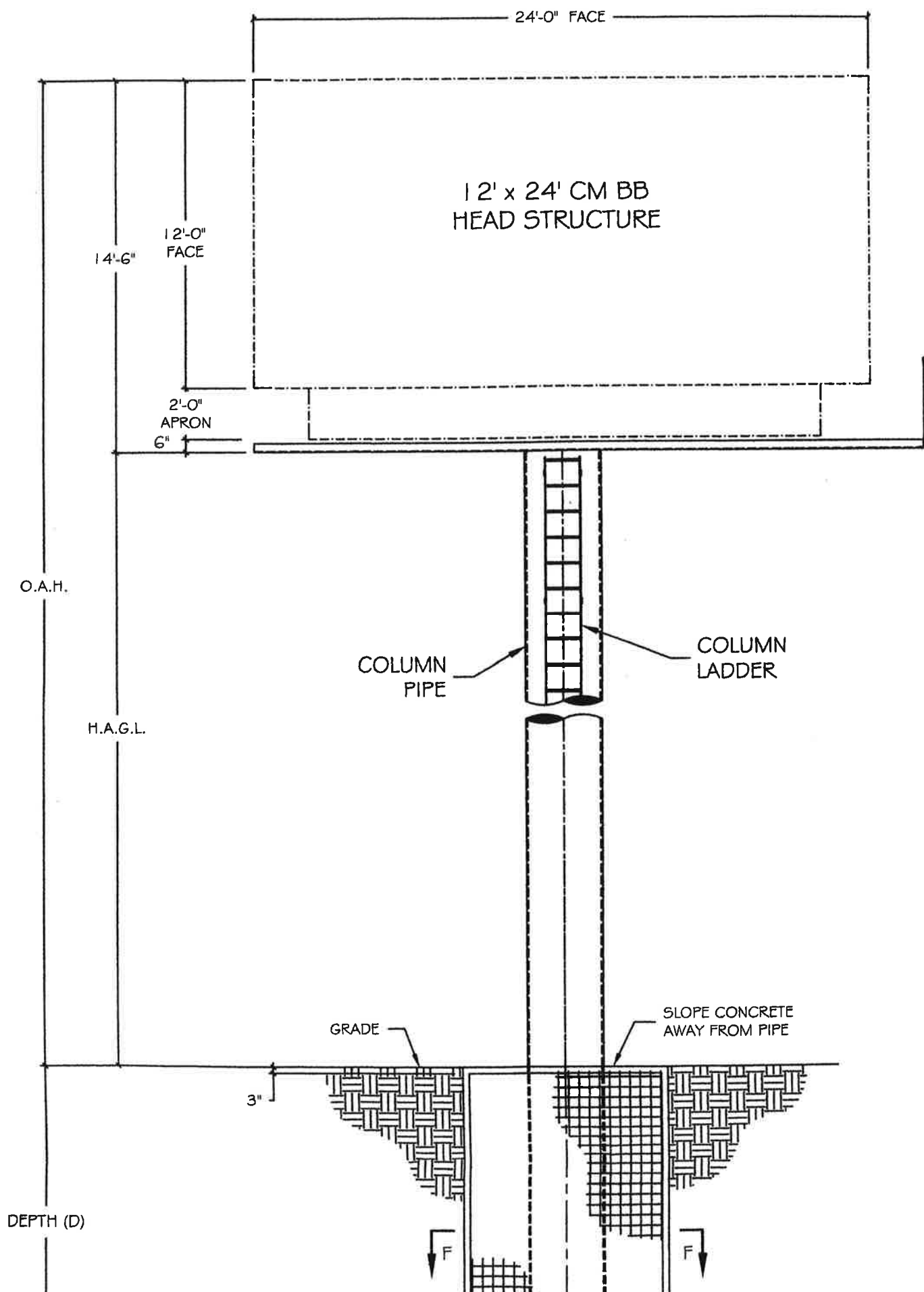
Reagan Outdoor Advertising 9/20/2019
Site Plan
Address: 20 W. 600 S. Logan, UT 84321
Parcel ID : 02-063-0009
Sign Structure: Flagged Unit back-to-back (12'x24')
QA Hieght: 35'
Site Administrator: breeze@reaganusa.com
Breeze Stringham 801-870-6493

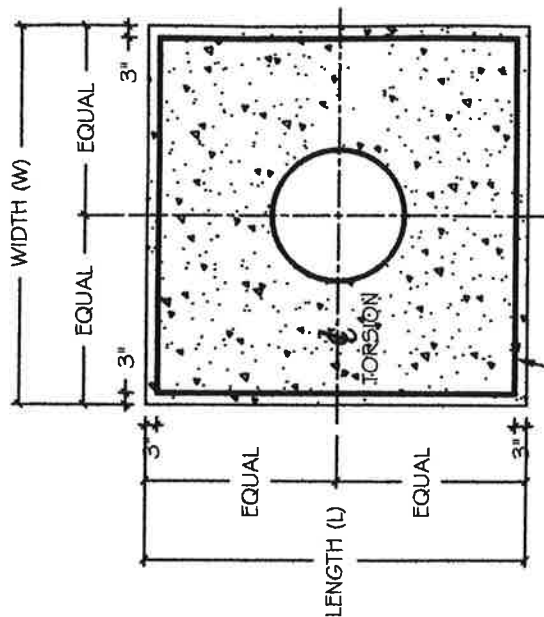


Reagan Outdoor Advertising

Sign Proposed for Relocation
1120 S. US 91 Main St.
Permit #: 1-1046

Breeze Stringham
801.870.6493
breeze@reaganusa.com





WELDED WIRE FABRIC
4 x 4 - W4 x W4
(4 SIDES OF COLUMN)

SECTION F-F

CENTER MOUNT COLUMN & FTG. SCHEDULE		
O.A.H.	H.A.G.L.	CUBE FTG. (W x L x D)
30'-0"	15'-6"	24"Ø x 0.312" (35ksi)
35'-0"	20'-6"	24"Ø x 0.344" (35ksi)
40'-0"	25'-6"	24"Ø x 0.375" (40ksi)
45'-0"	30'-6"	30"Ø x 0.312" (40ksi)
50'-0"	35'-6"	30"Ø x .344 (40 ksi)
		8'-0" x 8'-0" x 12'-0"

SIGN PERMIT APPLICATION

Planning & Zoning
Building Safety Division



Please print legibly and complete all areas.		Date Received							
Permit #	Project Address: <u>20 W. 600. S. Logan</u>								
	Suite #:								
	Name of Business at this location:								
	Applicant's Name: <u>Reagan outdoor</u>	Phone: () Email: <u>bruce@reaganusa.com</u>							
	Applicant's Address: <u>1775 Warm Springs RD</u>	Cell Phone: <u>(801) 870. 6493</u> Fax:							
	Property Owner: <u>Trace Nixon</u>	Phone: () Email: <u>jack@nixonl.com</u>							
	Owner's Address: <u>150 E 400 N Logan</u>	Cell Phone: <u>(435) 890. 7222</u> Fax:							
	Engineer/Architect: <u>RM6 outdoor Inc.</u>	Phone: <u>(62) 625, 2644</u> Email:							
	Sign Installation Ctr: <u>ROA</u>	Phone: <u>(801) 870. 6493</u> Utah Lic.# <u>252213 - 5551</u>							
	Contractor Address: <u>1775 Warm Springs RD SLC, UT</u>								
Electrical Ctr, if needed <u>LMS</u>	Phone: <u>(801) 281. 0400</u> Utah Lic.# <u>245985 - 5501</u>								
Contractor Address: <u>663 W. 4330 S. SLC</u>									
<input type="checkbox"/> Required: 1 copy or proof of: <input type="checkbox"/> Current Business License or <input type="checkbox"/> Completed Business License application									
<input type="checkbox"/> 2 Copies of proposed sign(s) in color.									
<input type="checkbox"/> For a sign reface with the same business owner only, 2 copies of the proposed sign(s) in color. No fee or inspection is required.									
<input type="checkbox"/> 2 Site plans showing property lines & linear footage of the building facing streets.									
<input type="checkbox"/> 2 Sets drawings. Must include <input type="checkbox"/> attachment details, <input type="checkbox"/> electrical details, building elevations showing proposed sign placement, square footage of each existing sign, square footage of each proposed sign, photographs or drawing of actual signs with dimensions. These must be to scale & show accurate colors.									
<input type="checkbox"/> 2 Sets Engineering & Structural Calculations (one set must be wet-stamped) REQUIRED for each pole* or monument* sign.									
<input type="checkbox"/> 2 Sets footing & foundation plans (one set must be wet-stamped) for each pole or monument sign.									
Brief description:									
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>Existing Signs: # & Type of each</td> <td>Building Sign Message Center</td> <td>Pole Sign Monument</td> <td>Awning</td> <td>Directional</td> <td>Perpendicular</td> <td>Other:</td> </tr> </table>			Existing Signs: # & Type of each	Building Sign Message Center	Pole Sign Monument	Awning	Directional	Perpendicular	Other:
Existing Signs: # & Type of each	Building Sign Message Center	Pole Sign Monument	Awning	Directional	Perpendicular	Other:			
Is sign illuminated? Yes No If yes, are you using existing electrical? Yes No** **If you are installing new wiring to illuminate or animate a sign, you must also hold an electrical license OR list an electrical subcontractor below.									
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>Proposed Signs: # & Type of each</td> <td>Building Sign Message Center Awning</td> <td>Pole Sign* Monument*</td> <td>Directional</td> <td>Reface ONLY, current owner (no other work done) Reface sign, New business and/or new owner Other:</td> </tr> </table>			Proposed Signs: # & Type of each	Building Sign Message Center Awning	Pole Sign* Monument*	Directional	Reface ONLY, current owner (no other work done) Reface sign, New business and/or new owner Other:		
Proposed Signs: # & Type of each	Building Sign Message Center Awning	Pole Sign* Monument*	Directional	Reface ONLY, current owner (no other work done) Reface sign, New business and/or new owner Other:					
This permit becomes null and void if work or construction is not commenced within 180 days, or if construction is suspended or abandoned for a period of 180 days at anytime after work is commenced. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work shall be complied with, whether specified herein or not, the granting of this permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction and that I make this statement under penalty or perjury. By signing this agreement I understand that plans must remain on-site and the address must be clearly marked to get an inspection.									
SIGN INSPECTIONS ARE REQUIRED. 24-hour notice is required in order to schedule an inspection.									
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 40%;"> <u>[Signature]</u> Applicant's signature </td> <td style="width: 20%;"> Date </td> <td style="width: 40%;"> <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Contractor <input type="checkbox"/> Other, specify _____ </td> </tr> </table>			<u>[Signature]</u> Applicant's signature	Date	<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Contractor <input type="checkbox"/> Other, specify _____				
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<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 40%;"> _____ Property owner's signature </td> <td style="width: 20%;"> Date </td> <td style="width: 40%;"></td> </tr> </table>			_____ Property owner's signature	Date					
_____ Property owner's signature	Date								

SIGN PERMIT APPLICATION

Chapter 17.50: Appeals

§17.50.010 Purpose

This chapter provides uniform appeals procedures for development-related actions of the City.

§17.50.020 Standing to File an Appeal

The proponent or any affected party who participated in the hearing process may file an appeal of a decision type set forth in Subsection 17.50.040.

§17.50.030 Land Use Appeal Board – Appointed Members

- A. The Mayor shall appoint three (3) members and up to two (2) alternates, with advice and consent of the City Council, to serve as the Land Use Appeal Board for requests and appeals of decisions by a Land Use Authority, including variances under Title 10, Chapter 9a, Part 7 of the Utah Code.
- B. A member shall be a resident of the City.
- C. A member shall have experience in land use matters.
- D. A member shall be appointed for a term of five (5) years and may not serve more than three (3) consecutive terms.
- E. A member may be removed by the Mayor for any reason.
- F. Three (3) members are required to constitute a quorum.

§17.50.35 Authority of Land Use Appeal Board

- A. The Land Use Appeal Board shall hear and decide:
 - 1. Requests for variances from the requirements of the City's land use ordinances;
 - 2. Appeals from decisions by a Land Use Authority applying the City's land use ordinances;
 - 3. Appeals from a fee charged in accordance with Section 10-9a-510 of the Utah Code;
 - 4. Appeals of a denial by a Land Use Authority of a request for a reasonable accommodation; and
 - 5. Any other appeal of a decision delegated to the Land Use Authority by the Logan Land Development Code or the Logan Municipal Code.
- B. The Land Use Appeal Board shall:
 - 1. Act in a quasi-judicial manner;
 - 2. Serve as the final arbiter of issues involving the interpretation or application of City land use ordinances subject to appeal to the Utah District Courts as provided in Section 10-9a-801 of the Utah Code.

§17.50.040 Filing Appeals

- A. All administrative appeals shall be filed in writing with the Director within ten (10) calendar days of the action being appealed. An appeals application not filed in the Department of Community Development shall not constitute a filing for purposes of meeting the 10-day limit.
- B. The filing of a written appeal or request does not stay the decision of the Land Use Authority. The Appellant may petition the Land Use Appeal Board to stay the Land Use Authority decision. Upon petition, the Land Use Appeal Board may order the decision of the Land Use Authority stayed pending review by the Land Use Appeal Board.

§17.50.050 Contents of the Request for an Appeal**A. Administrative Procedures.**

The Director shall prepare administrative procedures and an application form for filing an appeal before the Land Use Appeal Board.

B. Minimum Requirements for a Request to Appeal.

At a minimum, the request for an appeal shall be filed in writing and include the following:

1. The name of the person or persons filing the appeal, a mailing address and telephone number;
2. The project file number and the name of the project as it appeared on the agenda, or if appealing a staff decision, a description of the decision;
3. The date of the original hearing or staff decision;
4. Required appeal application fee; and
5. The specific issues being appealed. The appeal may not merely appeal the action of the decision-making body, but must specify how the Land Use Authority erred.

C. Incomplete Applications.

An incomplete application for an appeal shall not be accepted and shall not waive, defer, or delay the 10-day appeal deadline.

§17.50.060 Standard of Review**A. The Land Use Appeal Board review of the appeal or request shall be limited to the record of the land use application process resulting in the decision made by the Land Use Authority including written communications, written land use decision, and the written appeal or request.****B. The Land Use Appeal Board may not accept or consider any evidence outside the record of the Land Use Authority unless that evidence was offered to the Land Use Authority and the Board determines that it was improperly excluded. The Appellant has the burden of proving that the Land Use Authority erred. The Appellant has the burden of proving that the Land Use Authority erred. The Land Use Appeal Board shall presume that a Land Use Authority decision is valid and in the review of factual matters shall determine only whether or not the decision is arbitrary, capricious, or illegal. A Land Use Authority decision interpreting or applying a land use ordinance shall be reviewed for correctness.****C. The Land Use Appeal Board may grant a variance only as allowed under Utah law.****§17.50.070 Staff Report Required****A. Appeals of Commissions and Committees.**

Appeal proceedings shall include a staff report updated from the Commission or Committee meeting with the results of the meeting and a summary of the actions or finding being appealed.

B. Appeals of Staff Decisions and Boundary Line Adjustments.

The staff member rendering the decision being appealed shall provide the Land Use Appeal Board and appellant with a written report or memorandum explaining the basis of the decision or interpretation. This report or memorandum shall serve as the administrative record of decision.

§17.50.080 Appeal Meeting

Not less than ten (10) calendar days following the mailing of a public notice, the Land Use Appeal Board shall hold a public meeting to hear the appeal. At that meeting, the Land Use Appeal Board shall hear the Staff's report including a summary of the action being appealed, the testimony of the appellant, and the testimony of the proponent, if different from the appellant.

§17.50.090 Decision of the Appeal

The Land Use Appeal Board shall render its decision at the meeting by majority vote of the three (3) member Board. If the Board overturns or modifies the action of the Land Use Authority, the Board shall make substantiated findings in conformance with the requirements of procedures for the type of action being appealed. If the Board upholds the appealed action, no additional findings are required and the Board's action automatically affirms the previously adopted findings. The Board may, upon upholding the Land Use Authority, add, clarify, or enhance findings based upon the facts of the appeal meeting

§17.50.100 Final Decision

A decision of the Land Use Appeal Board takes effect on the date when the Land Use Appeal Board issues a written decision.