

DATE: November 8, 2007

TO: Mayor and Council Members

FROM: Community Development Department

SUBJECT: **ORDINANCE NO. 1101 - AN ORDINANCE AMENDING CHAPTER 17.59 OF THE FOLSOM MUNICIPAL CODE TO ALLOW OFF-SITE ADVERTISEMENT ON A PERMITTED ANIMATED SIGN (First Reading)**

**BACKGROUND/ISSUE**

The Folsom Auto Mall has approached the City with a request to modify the Folsom Municipal Code (FMC) to allow its readerboard sign to include third-party or off-site advertising. Once such a change is made to the FMC, staff anticipates that the Folsom Auto Mall will apply for a Conditional Use Permit to modify their sign to incorporate the third-party or off-site message. Third-party or off-site messages may include advertisement of a retail or business center that is not a part of the Folsom Auto Mall.

Several Auto dealerships have worked with Sacramento County to allow the expansion of the Auto Mall facility located outside the Folsom City limits. This expansion would create an issue regarding the advertising of products and services by any business that is wholly or partially located on the County portion of the business site. Since the business would be located off of the Folsom property, any advertising on the Auto Mall sign would be considered an off-site or third party advertisement, and illegal under the current Folsom Municipal Code. As the code reads now, those businesses that are located in the county would be excluded from advertising on the readerboard sign.

In 2003, the City Council approved changes to the portion of the Folsom Municipal Code that allowed animated signs along US Highway 50 (or a scenic corridor) subject to the issuance of a Conditional Use Permit (CUP) with the removal of more than one existing billboard.

The creation or placement of an electronic readerboard sign is not part of this proposed FMC change. This proposed amendment to the FMC will simply modify the language of the Code to allow third party or off-site messages that can be displayed on the sign. The only messages currently allowed on an animated sign are for the businesses within the Folsom Auto Mall and for public service announcements.

## ANALYSIS

The Folsom Auto Mall Dealers Association is in the process of expanding their facilities to include property that is situated outside of the corporate boundary of the City of Folsom in Sacramento County. In order for them to be able to continue to use the existing animated electronic sign to advertise the products and services that the Auto Mall sells, it is necessary to modify the Folsom Municipal Code to allow the use of a freestanding freeway sign by off-site or third party users. The proposed modification will provide an opportunity for businesses outside of the Auto Mall to advertise on the sign.

This proposed change would not automatically allow a different message to be displayed on the readerboard sign. For a change to happen to the Auto Mall sign, the Auto Mall will need to apply to the Planning Commission for a Conditional Use Permit modification in order to modify their existing Conditional Use Permit, as per the Folsom Municipal Code. As a part of any application for a Conditional Use Permit modification, the applicant will be required to comply with the Outdoor Advertising Act (California Business and Professional Code §5200 et. Seq). Staff has been in contact with Caltrans relative to the Outdoor Advertising Act and Caltrans indicated that as long as the FMC allows third party advertising, Caltrans will permit the Readerboard sign.

The proposed code amendment is as follows:

### **FMC Section 17.59.040(E) Freeway Signs.**

2.5. Animated Signs. "A conditional use permit for an animated freestanding freeway sign on property abutting U.S. Highway 50 may be approved when the proposal involves the removal of more than 1 existing billboard sign along Highway 50 or a scenic corridor as defined in this chapter. The sign shall be an authorized billboard within the current city limits. In order to grant approval of the conditional use permit, the planning commission shall find that the proposal results in a net decrease in the number and sign area of billboard signs along U.S. Highway 50 or a scenic corridor within the city and that the property on which the animated sign is located has no other freestanding sign as permitted in subsection (E) (2) of this section. Where a freestanding sign already exists on the property on which the animated sign is to be located, the project shall be conditioned to require removal of the sign. The maximum height of the animated freeway sign shall be no higher than the highest billboard sign being removed and shall not have a greater sign area than the largest billboard being removed." *Notwithstanding anything to the contrary in this Chapter, both on-site and off-site advertising copy shall be permitted on permitted animated signs. (new language proposed by this ordinance)*

### **Planning Commission Meeting – November 7, 2007**

The proposed code amendment forwarded to the City Council by the Planning Commission is a split vote with two commissioners voting in favor of the change and two voting against it (three

commissioners were absent). Because third-party advertising would be permitted, the Planning Commissioners in opposition of the code amendment made the following comments:

- The sign can advertise casinos and other out-of-area (or state) businesses and Folsom can not control the sign content
- There is no mechanism to require Folsom-only advertising which would support our local businesses and associated tax base
- Folsom is distinct from other areas and that is what the residents appreciate about Folsom

The Commissioners supporting the code amendment felt that the automall's excess advertising time could favor the Folsom tourism bureau and local businesses that cannot currently advertise on the sign. Businesses that are not along the Highway 50 corridor would gain corridor exposure (i.e., Historic Folsom businesses).

The Planning Commission seemed to universally favor the Code change if it could be used to only advertise Folsom businesses. However, the conversion to off-site advertising cannot be restricted to Folsom-only advertisement by law.

### **ENVIRONMENTAL ANALYSIS**

Staff has determined that this project is categorically exempt from CEQA requirements under Section 15061(b)(3) "Review for Exemption" and Section 15301(g) "Existing Facilities. New copy on existing on and off-premises signs."


### **ATTACHMENTS**

1. **ORDINANCE NO. 1101 - AN ORDINANCE AMENDING CHAPTER 17.59 OF THE FOLSOM MUNICIPAL CODE TO ALLOW OFF-SITE ADVERTISEMENT ON A PERMITTED ANIMATED SIGN**

### **RECOMMENDED CITY COUNCIL ACTION**

**MOVE TO INTRODUCE ORDINANCE NO. 1101 - AN ORDINANCE AMENDING CHAPTER 17.59 OF THE FOLSOM MUNICIPAL CODE TO ALLOW OFF-SITE ADVERTISEMENT ON A PERMITTED ANIMATED SIGN (First Reading)**

Submitted,



David E. Miller  
Community Development Director

ATTACHMENT 1

## ORDINANCE NO. 1101

### AN ORDINANCE OF THE CITY OF FOLSOM AMENDING CHAPTER 17.59 OF THE FOLSOM MUNICIPAL CODE TO ALLOW OFF-SITE ADVERTISEMENT ON A PERMITTED ANIMATED SIGN

The City Council of the City of Folsom does ordain as follows:

#### SECTION 1 PURPOSE

The purpose of this ordinance is to permit third-party advertisement on a permitted animated freeway sign, consistent with provisions of the Outdoor Advertising Act. The City desires to support businesses that provide a strong tax base.

#### SECTION 2

Existing Chapter 17.59 of the Folsom Municipal Code is hereby amended to modify the following general provision to Section 17.59.040 (E) Freeway Signs 2.5 Animated Signs to add the following sentence italicized and underlined below:

2.5 **Animated Signs.** A Conditional Use Permit for an animated freestanding freeway sign on property abutting U. S. Highway 50 may be approved when the proposal involves the removal of more than one existing billboard sign along Highway 50 or a scenic corridor as defined in this Chapter. Said sign shall be an authorized billboard within the current city limits. In order to grant approval of the Conditional Use Permit, the Planning Commission shall find that the proposal results in a net decrease in the number and sign area of billboard signs along U.S. Highway 50 or a scenic corridor within the City and that the property on which the animated sign is located has no other freestanding sign as permitted in section 17.59.040 (E)(2). Where a freestanding sign already exists on the property on which the animated sign is to be located, the project shall be conditioned to require removal of the sign. The maximum height of the animated freeway sign shall be no higher than the highest billboard sign being removed and shall not have a greater sign area than the largest billboard being removed. *Notwithstanding anything to the contrary in this Chapter, both on-site and off-site advertising copy shall be permitted on permitted animated signs.*

#### SECTION 3 SCOPE

Except as set forth in this ordinance, all other provisions of Chapter 17.59 remain in full force and effect.

#### SECTION 4 SEVERABILITY

If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection,

sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

**SECTION 5 EFFECTIVE DATE**

This ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation within the City of Folsom.

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on November 13, 2007, and the second reading occurred at the regular meeting of the City Council on November 27, 2007.

On a motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_ the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 27<sup>th</sup> day of November 2007, by the following vote, to wit:

- AYES: Council Member(s)
- NOES: Council Member(s)
- ABSTAIN: Council Member(s)
- ABSENT: Council Member(s)

\_\_\_\_\_  
Andrew J. Morin, MAYOR

ATTEST:

\_\_\_\_\_  
Christa Schmidt, CITY CLERK