



CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2019

From: John Swiecki, Community Development Director

Subject: Election Signs Regulations – Draft Ordinance No. 640

Community Goal/Result

Community Building/Safe Community

Purpose

To amend the Brisbane Municipal Code (BMC) to add election sign provisions.

Recommendation

That the City Council adopt Ordinance No. 640 (Attachment 1) as an urgency ordinance.

Background

Although the city does not currently have an ordinance regulating election signs, historically signs have been placed on both private and city owned property, including the public right-of-way. Signs placed on city property have generally been allowed to remain during election cycles. The practice of placing signs on city property has been growing in recent years as election campaigns seem to have increasing funding. In light of that growing practice, City Council directed staff to draft an ordinance to regulate election signage.

Note that, because election signs implicate the First Amendment, sign ordinances may regulate only as to time, manner and place. In terms of place, some jurisdictions go so far as to allow that election signs may only be placed on private property.

On June 27th, the Planning Commission held a public hearing on the attached draft ordinance and recommended approval, with one recommended modification, as indicated below. The Commission's agenda report, minutes and resolution are attached for Council's reference.

Given the upcoming General Election in November, this ordinance has been proposed as an urgency ordinance, so it would be effective immediately upon adoption.

Discussion

The proposed ordinance would regulate election signs on both city property and private property, with placement on city property being limited in terms of the allowed locations. The

ordinance would include provisions addressing the size, height, not presenting a hazard to drivers, not allowing for lighted signs and removal within five days after an election.

Although signs have historically been placed throughout the city, it is proposed that public locations be limited to the four locations identified below and further described in the draft ordinance:

1. West Hill Drive and Silverspot Drive
2. Guadalupe Canyon Parkway and Mission Blue Drive
3. Monarch Drive and Mission Blue Drive
4. Old County Road, across from the Community Park

As drafted, the ordinance prohibits election signs within other rights of way or other city property.

During the Planning Commission's review of the draft ordinance on June 27, 2019, a concern was raised that the proposed public sign locations were over-concentrated near the northeast Ridge neighborhood. The Planning Commission recommended by unanimous vote that location No. 1, at West Hill Drive and Silverspot Drive, be replaced with a location closer to Central Brisbane. In consideration of the Commission's recommendation, staff has provided four alternatives for Council's consideration:

5. In the eastern portion of the Quarry Road Park, which is located north of the intersection of Inyo Street and San Francisco Avenue at the end of the Old Quarry Road Trail.
6. Along the northern edge of the Community Park, south of Old County Road and opposite the Brisbane Village Shopping Center, to the west of the sidewalk entering the park.
7. The Brisbane Elementary School side of San Bruno Avenue at the intersection of Santa Clara Street, adjacent to the red painted curb and within the mow strips on either side of the San Bruno Avenue sidewalk.
8. In the area immediately south of the city's water pump station, at the intersection of Glen Park Way and Lake Street.

A map and photos showing all eight of the locations are provided as Attachment 2.

Fiscal Impact

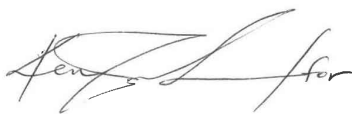
None. No significant increase in staff time is anticipated over what has historically been spent in the city's management of what has been unregulated election signage.

Measure of Success

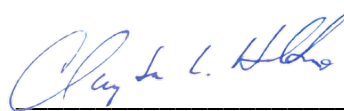
That the adopted ordinance provides election sign regulations that allow candidates and election committees to get their messages out to the community, while placing necessary limitations on such signs.

Attachments

1. Draft Ordinance No. 640
2. Vicinity Map & Photos - Approximate Locations for Election Signs on Public Property
3. Planning Commission Resolution No. RZ-1-19
4. Agenda Report to Planning Commission, dated June 27, 2019
5. Planning Commission Minutes (Draft), dated June 27, 2019



John A. Swiecki, Community Development Director



Clay Holstine, City Manager

ATTACHMENT 1

Draft - ORDINANCE NO. 640

AN ORDINANCE OF THE CITY OF BRISBANE ADDING SECTION 17.32.260 TO CHAPTER 17.32 AND AMENDING SECTION 17.36.020 OF THE BRISBANE MUNICIPAL CODE CONCERNING ELECTION SIGNS AND DECLARING THE URGENCY THEREOF TO TAKE EFFECT IMMEDIATELY UPON ITS ADOPTION

THE CITY COUNCIL OF THE CITY OF BRISBANE ORDAINS AS FOLLOWS:

Section 1. Section 17.32.260 is hereby added to Chapter 17.32 of the Brisbane Municipal Code to read as follows:

“17.32.260 Election Signs

- A. For purposes of this Section, an “election sign” is a non-commercial sign of a political nature that directly relates to a candidate or to a ballot measure in an election conducted by a governmental entity and that is placed on property within the City of Brisbane.
- B. An election sign shall:
 1. not exceed ten square feet,
 2. not exceed three feet in height above the finished grade if the election sign is freestanding ,
 3. not create a site distance hazard for persons using the adjacent roadway,
 4. be illuminated only by ambient lighting, and
 5. be removed within five days following the election by the person who placed the election sign or by the owner/occupant of the property on which the election sign has been placed.
- C. An election sign shall be placed on private property only with the consent of the private property owner and/or the occupant of the private property.
- D. An election sign shall not be placed on any utility poles nor on any public property or right of way except as follows:
 1. the south side of West Hill Drive, directly opposite its intersection with Silverspot Drive;
 2. the north side of Guadalupe Canyon Parkway, directly opposite its intersection with Mission Blue Drive;
 3. the southwest corner of the intersection of Monarch Drive and Mission Blue Drive; and

4. the northernmost portion of the curve in Old County Road, directly opposite the Community Park signboard.
- E. For City Council candidates and City ballot measures, each candidate or campaign committee chair shall sign a pledge to remove all election signs concerning the candidate/ballot measure following the election.”

Section 2. Section 17.36.020 of the Brisbane Municipal Code is amended to read as follows:

17.36.020 - Definitions.

A. In addition to the definitions set forth in Chapter 17.04, all of which are applicable to this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

1. "Advertising sign" (referred to in this chapter as "sign") means any alpha-numeric lettering, trademark, design, ornamentation, or picture which identifies or advertises a person, institution, organization, business, service or product, which is attached to or made a part of any structure or placed upon any land or in or on any window, which is visible from any public or private street, highway, sidewalk or alley, or other outside public area. Paintings or other art forms visible to the public are not considered advertising signs.
2. "Awning sign" means a sign that is printed, painted, fixed, marked, stamped or otherwise impressed upon the surface of an awning covering.
3. "Banner" means any sign of lightweight fabric or similar material that is mounted at one or more edges to a pole or the exterior of a building.
4. Billboard. See "nonappurtenant advertising structure."
5. "Construction sign" means a temporary sign that announces the name and character of a building under construction and may identify those persons directly connected with the construction.
6. "Directional sign" means a sign that is located on-site, the sole purpose of which is to direct the flow of traffic, indicate entrances or exits and transmit parking information.
7. "Directory sign" means a sign identifying or advertising multiple businesses located on the same site as the sign.
8. "Election sign" means a sign as defined in Section 17.32.260 of this Code.
9. "Freestanding sign" means a sign affixed to the ground and detached from any building. See "pole sign" and "monument sign."

10. "Height of sign" means the distance between the highest point of a sign and the finished grade at its base.
11. "Identification sign" means a sign displaying the name of the property or the premises upon which displayed or the owner or occupant thereof.
12. "Illuminated sign" means a sign having its own immediate source of internal or external illumination.
13. "Kinetic sign" means a sign that is reflective, rotating, wind-driven, flashing, animated or revolving, including electronic readerboards.
14. "Monument sign" means a freestanding sign without exposed supports or poles.
15. "Nonappurtenant advertising structure" means a structure that advertises products or businesses which do not pertain solely to uses permitted and conducted on the property where such structure is located.
16. "Nonconforming sign" means a sign legally constructed or installed in compliance with all zoning regulations then applicable to the site, but which, by virtue of a subsequent change in such regulations or reclassification or annexation of the property, no longer conforms with the sign regulations currently applicable to the site.
17. "Off-site directional sign" means an off-site sign that serves solely to provide directions to a local business.
18. "Off-site open house sign" means a temporary off-site sign that serves solely to provide directions to a property being offered for sale which is open for inspection by the general public on the day the sign is displayed.
19. "Pole sign" means a sign supported from the ground by a pole or poles.
20. "Portable sign" means any sign which is intended to be moved or capable of being moved, whether or not on wheels or other special supports.
21. "Primary frontage" means that single property line of a lot abutting a public or private street and providing the principal means of access to the lot or occupancy thereof.
22. "Privilege sign" means a sign containing the name and/or logo of any product or service other than that which provides the majority of the business conducted on the site.
23. "Projection sign" means a sign that is affixed at an angle or perpendicular to the wall of any building.
24. "Residential home occupation sign" means a sign located on the site of a dwelling unit that identifies a home occupation being legally conducted on the same site by the occupant of the dwelling unit.

25. "Roof sign" means a sign located on the roof of a building.
26. "Sale or lease sign" means a temporary sign advertising the sale or rental of all or a portion of the premises upon which the sign is located.
27. "Secondary frontage" means any property line of a lot abutting a public or private street other than the primary frontage.
28. Sign. See "Advertising sign."
29. "Sign area" means the area of a sign as calculated in accordance with the procedures for measurement illustrated in Figure 17.36.020B.
30. "Sign program" means an overall plan for signage, as approved by the planning commission, pertaining to all or any portion of a site and the buildings thereon, which may include, but is not limited to, unique requirements for the sign area, dimension, color, material, design, size and illumination of all signs to be erected or installed pursuant to the sign program.
31. "Subdivision sale sign" means a temporary sign advertising the sale of lots or homes within a subdivision of five (5) or more lots.
32. "Temporary sign" means a sign that is not permanently installed or affixed to the site and is required to be removed within the time prescribed in Table 17.36.020 for the applicable type of sign.
33. "Wall sign" means a sign affixed parallel to a wall or painted on the wall so as to read parallel to the wall.
34. "Window sign" means a sign affixed on a window or within a window frame.

Section 3. Effective Date. This Ordinance is adopted as an urgency ordinance to take effect immediately upon its adoption because otherwise this Ordinance would not go into effect until October 2019, well into the election season for the November 2019 election. In order to provide opportunities for candidates and campaigns for local ballot measures to get their message out to voters in a timely way, this Ordinance is adopted immediately in order to better preserve the health and safety of the community.

The above and foregoing Ordinance was adopted as an urgency ordinance, to take effect immediately upon its adoption, at a regular meeting of the Brisbane City Council held July 18, 2019, by the following vote:

AYES:
NOES:
ABSENT:

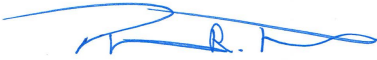
ABSTAIN:

Madison Davis, Mayor

ATTEST:

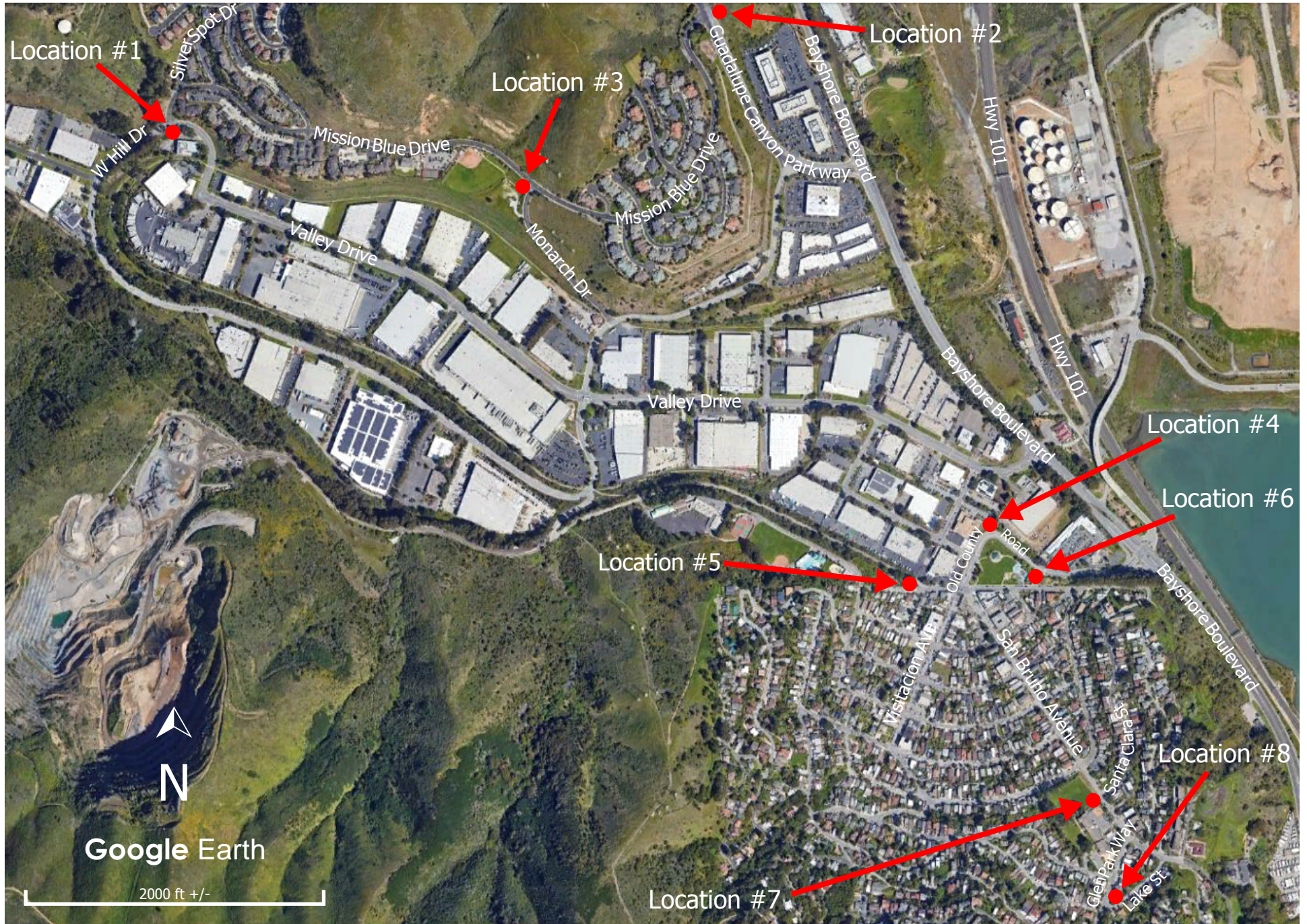
Ingrid Padilla, City Clerk
Approved as to form:

APPROVED AS TO FORM:



Thomas McMorrow, City Attorney

Vicinity Map Approximate Locations for Election Signs on Public Property



Originally Proposed Public Locations for Election Sign Placements



1) West Hill Drive and Silverspot Drive



2) Guadalupe Canyon Pkwy & Mission Blue Drive



3) Monarch Drive and Mission Blue Drive



4) Old County Road across from the Community Park

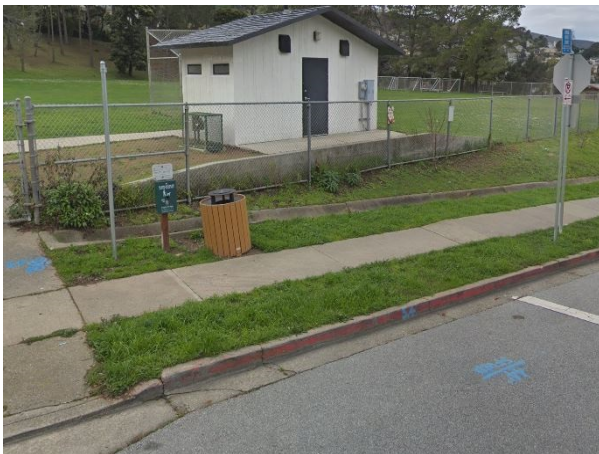
Alternative Public Locations for Election Sign Placements



5. Quarry Road Park at San Francisco Avenue



6. Community Park across from Shopping Center



7. San Bruno Ave. & Santa Clara Street, by BES



8. Pump Station at Lake Street & Glen Park Way

RESOLUTION RZ-1-19

**A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
RECOMMENDING APPROVAL OF
ZONING TEXT AMENDMENT RZ-1-19 TO THE CITY COUNCIL
AMENDING CHAPTERS 17.32 AND 17.36 OF TITLE 17 OF THE
BRISBANE MUNICIPAL CODE TO ADD
ELECTION SIGN PROVISIONS**

WHEREAS, Brisbane Municipal Code Chapters 17.32 and 17.36 do not currently include provisions regulating the use of election signs; and

WHEREAS, City Council directed that the Sign Ordinance should include such provisions regulating election signs; and

WHEREAS, on June 27th, 2019, the Planning Commission conducted a hearing of the application, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the staff memorandum relating to said application and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds the proposed zoning text amendment is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15311 of the State CEQA Guidelines and the exceptions to the categorical exemption referenced in Section 15300.2 do not apply; and


WHEREAS, the draft Ordinance No 640 is included as Exhibit A and the minutes of the Planning Commission meeting of July 27th, 2019 are incorporated by reference as part of this resolution.

NOW THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance:

AYES: Gomez, Gooding, Mackin and Sayasane

NOES: NA

ABSENT: Gooding


PAMALA SAYASANE
Chairperson

ATTEST:

JOHN A. SWIECKI, Community Development Director

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 06/27/2019

SUBJECT: **Zoning Text Amendment RZ-1-19;** Zoning Text Amendments to Chapter 17.32 and Chapter 17.36 of Title 17, Zoning, of the Brisbane Municipal Code to add Section 17.32.260 – Election Signs, providing new regulations for election signs, and amending Section 17.36.020 – Definitions to provide a cross reference; Citywide; City of Brisbane, applicant

REQUEST: Zoning text amendment to add election sign provisions to Brisbane Municipal Code (BMC) Chapter 17.32 with a cross reference in Chapter 17.36, as requested by City Council.

RECOMMENDATION: Adoption of Resolution RZ-1-19, recommending approval of the zoning text amendment to City Council.

ENVIRONMENTAL DETERMINATION: Categorically exempt from the provisions of the California Environmental Quality Act per Section 15311 of the State CEQA Guidelines. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.

APPLICABLE CODE SECTIONS: The General Use Regulation, in which the proposed election signs provisions would be contained, are provided in BMC Chapter 17.32. Advertising sign provisions are provided in Brisbane Municipal Code Sections 17.36. Procedures for zoning amendments are provided in BMC Chapter 17.50.

BACKGROUND: Many, if not most, cities in California have ordinances concerning election or campaign signs. Because such signs implicate the First Amendment, such ordinances may regulate only as to time, manner and place. Accordingly, typically ordinances provide that such signs may only be placed on private property, may only be of a certain size, not create a site distance impediment for those using the adjacent roadway and be removed within a reasonable time after the election. Ordinances that purport to place a restriction as to when such signs may be placed have been held unconstitutional as infringing free speech. However, local candidates and campaigns will often voluntarily agree not to place such signs until, for example, 30 days prior to the election in order to avoid visual clutter in the community.

Currently the City of Brisbane does not have an ordinance concerning election signs. Moreover, the City has allowed election signs to be placed in several publicly owned locations.

These are at:

1. West Hill Drive and Silverspot Drive
2. Guadalupe Canyon Parkway and Mission Blue Drive
3. Monarch Drive and Mission Blue Drive
4. Old County Road, across from the Community Park

In recent election cycles, campaign committees have made inquiry about what regulations apply to placing campaign signs on private and public property, as such, committees want to get their message out to City voters. Increasingly, campaigns seem to have more funds for getting out their message and it is anticipated that many campaigns will be using election signs for that purpose.

In light of that trend, the attached “election sign” ordinance would provide direction to candidates and ballot measure campaigns. Also, given the timing of the next election cycle, it would be recommended as an urgency ordinance to City Council, to take effect immediately upon its adoption.

DISCUSSION: For the purposes of the proposed ordinance, an “election sign” is a non-commercial sign of a political nature that directly relates to a candidate or to a ballot measure in an election conducted by a governmental entity and that is placed on property within the City of Brisbane. There are five provisions outlined in the ordinance that an election sign would need to comply with. These are that an election sign shall:

1. *“not exceed ten square feet,*
2. *not exceed three feet in height above the finished grade if it’s freestanding,*
3. *not present a site distance hazard for persons using the adjacent roadway,*
4. *be illuminated only by ambient lighting, and*
5. *be removed within five days following the election by the person who placed the election sign or by the owner/occupant of the property on which the election sign has been placed.”*

Election signs would continue to be allowed at the four locations within the public right-of-way identified above. These locations have been used in recent years for election signs, as outlined above. They are proposed since there is a historical precedent of the City permitting signs in these locations. However, with the proposed ordinance posting of election signs at other public right-of-way or at other City property locations would not be allowed. The locations are generally shown on the attached map and the City Engineer/Public Works Director has indicated that more detailed guidance in the implementation of the ordinance would be provided, through either more detailed mapping and/or demarcations in the field.

With the consent of a private property owner, one or more election signs may be placed on private property. Note that if a sign is freestanding, it is limited to 3 feet in height, whether in one of the four public right-of-way areas or on private property. If the sign is placed on a private building, it would not be limited to that 3 foot height limit, but the other provisions would still apply.

ATTACHMENTS:

- ~~A. Draft Resolution RZ-1-19, including Exhibit A, Draft Ordinance No 640~~ Provided separately
- ~~B. Vicinity Map - Approximate Locations for Election Signs on Public Property~~



Ken Johnson, Senior Planner



John Swiecki, Community Development Director

Draft excerpt –
BRISBANE PLANNING COMMISSION
Action Minutes of June 27, 2019
Regular Meeting

1. **PUBLIC HEARING: Zoning Text Amendment RZ-1-19;** Zoning text amendment to Chapter 17.32 and Chapter 17.36 of Title 17, Zoning, of the Brisbane Municipal Code to add Section 17.32.260 – Election Signs, providing new regulations for election signs, and amending Section 17.36.020 – Definitions to provide a cross reference to the new Election Signs section; City of Brisbane, applicant.

Senior Planner Johnson gave the staff report and answered Commissioner questions regarding the four public posting locations that are proposed in the draft ordinance and clarification regarding the map showing the locations, attachment of signs to utility poles, two-sided signs, banners and sign removal after an election. Staff indicated the text in the ordinance was what was intended and the map would be corrected to match the text. Staff clarified that two sided signs and banners would be allowed if they don't create a hazard and if they meet the size criteria. Sign placement on utility poles would be prohibited by the ordinance.

Resident James Christie commented that he observed that the ordinance would seem to codify what the City has already been allowing. Resident Mea Christie asked for clarification on a question that was raised by the Commission about the concentration of signs at the Northeast Ridge. There being no one else wishing to speak on the application, Commissioner Gooding moved to close the public hearing. Commissioner Sayasane seconded the motion and it was approved 4-0.

The Planning Commission discussed a concern that was raised about the apparent overconcentration of public sign locations proposed in the area of the Northeast Ridge.

Commissioner Gooding moved to recommend City Council approval of the draft ordinance, and to provide an additional recommendation to Council to eliminate the public posting location at West Hill Drive and Silverspot Drive and instead provide a location closer to Central Brisbane. Commissioner Gomez seconded the motion and it was approved 4-0.