

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 05/09/2019

SUBJECT: **Interim Use Permit UP-1-19, Freeway 101 at Beatty Avenue; Baylands C-1 Commercial Mixed-Use District**, Interim Use Permit for Existing Billboard to Remain for 5 Years; Clear Channel Outdoor, applicant; Oyster Point Properties (Universal Paragon Corporation), owner; APN 005-340-050

Request: The applicant requests approval of an Interim Use Permit for an existing billboard (“nonappurtenant advertising structure” per Brisbane Municipal Code Section 17.36.020.A.14) to remain for an additional five years. The structure, oriented to Highway 101, is located approximately 100 ft. south of Beatty Avenue at Hwy 101. The structure consists of two illuminated 23 ft. by 60 ft. faces, each at a 65-degree angle to the freeway with a total height of 55 ft. The requested approval would supersede the previously approved Use Permit UP-4-19. The first use permit was UP-4-82 and subsequent approvals have been granted for this use dating back to 1983.

Recommendation: Conditionally approve Interim Use Permit UP-1-19 per the staff memorandum with attachments, via adoption of Resolution UP-1-19 with Exhibit A containing the findings and conditions of approval.

Environmental Determination: Existing off-premise signs are categorically exempt from the provisions of the California Environmental Quality Act per Section 15301(g) of the State CEQA Guidelines. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.

Applicable Code Sections: The existing billboard is a “nonconforming sign” per Brisbane Municipal Code Sections 17.36.020.A.15 & 17.36.030.C, which is allowed to remain per BMC Section 17.36.080. BMC Chapter 17.41, adopted June 10, 1996, establishes the process for approving interim uses in the Baylands subarea.

Background: On February 28, 1983, as part of a legal settlement of a lawsuit concerning enforcement of the City’s billboard prohibition, six existing billboards along Bayshore Boulevard were removed and the City Council conditionally approved Use Permit UP-4-82 for the subject billboard. The original use permit was granted for a term of six years, and the applicant was allowed to apply for additional extensions. In regard to subsequent extensions, the original permit specified that “in considering [the owner’s] application for such extension, Brisbane will give due consideration to the character of the neighborhood and environs in which the structure is

located and whether there has been a material change therein such that the structure is no longer compatible with the character of said neighborhood.”

Analysis and Findings:

BMC Section 17.02.060 requires a finding of consistency with the general plan and any applicable specific plan adopted by the City Council for approval of use permits. BMC Sections 17.41.060.A-F require findings that the interim use will not be detrimental to the public health, safety or welfare, or injurious to nearby properties or improvements; that the interim use will not create any significant environmental impacts; that the interim use will not obstruct redevelopment; that all required public utilities and other infrastructure are or will be available; and that the use will be a benefit to the property and/or the public.

Consistent with General/Specific Plan--General Plan Policy 332 provides for approval of interim uses in the Baylands Subarea. BMC Section 17.41.020 defines "interim use" as one that is not expressly authorized under the redevelopment plan, any specific plan or the zoning regulations, provided that the use is not expressly prohibited in the General Plan or BMC Section 17.41.030. General Plan Program 35f states, “Prohibit new commercial billboard sites and seek to remove those currently in place.” The lawsuit settlement discussed above resulted in the removal of six billboards, and established terms for evaluating future extensions of the billboard in question, and these terms still apply. In evaluating the extension there has not been a material change in the character of the Baylands subarea such that the billboard is no longer compatible with the uses of the immediately surrounding neighborhood. No specific plan for the Baylands has yet been adopted as required for development under the Baylands PD Planned Development General Plan land use designation, and no changes in the character or uses in the vicinity have taken place.

As a follow up to ballot Measure JJ, it is anticipated that a revised draft specific plan will be forthcoming in the next year. Ultimately, the timing for adoption of the specific plan by City Council is not known. Actual redevelopment of the area in accordance with an adopted specific plan would be even further out and is not likely within the 5 year time frame of this permit application.

Not Detrimental or Injurious to Neighborhood or City—With no material changes having occurred in the Baylands subarea, allowing the billboard to remain for an additional 5 year term would not be detrimental to the neighborhood.

No Significant Environmental Impacts—Extension of the permit will not result in any physical changes to the existing structure. The operation of existing facilities are categorically exempt under California Environmental Quality Act per Section 15301 of the State CEQA Guidelines.

No Obstruction to Redevelopment-- In considering approval of the Interim Use Permit, the Planning Commission must find that the use “...will not obstruct, interfere with, or delay the intended redevelopment of the property...” (BMC Section 17.41.060.C). The billboard is located within the Brisbane Baylands proposed specific Plan area, in proximity to the planned Hwy 101/Geneva Ave interchange. Based on interchange design work undertaken to date, the existing billboard could potentially be impacted by future interchange improvements and/or related

grading. However, as indicated above, there is no established schedule for the construction of interchange improvements. Final interchange design, funding and construction would involve a multi-year program, and it appears unlikely that allowing the sign to remain for the next five years would interfere with a future interchange project. However, to ensure that the sign will not interfere with the interchange project in the unlikely event it proceeds during the term of the interim use permit, a condition of approval is included that the owner of the sign shall remove it if it is identified as an obstacle to public improvements.

Availability of Required Utilities and Infrastructure—The site is adequately served, given the use's limited needs.

Benefits to the Property and the Public--BMC Section 17.41.060E requires that the use will provide a benefit to the property, such as the elimination of blight or hazardous conditions, and/or a benefit to the public, such as jobs, revenues, needed goods or services. In this case, the benefit provided to the public is the payment of an annual business license fee to the City of Brisbane. The business license fee rate is 8% of the sign's annual gross receipts. Historically, the annual business license fees have averaged approximately \$47,000. A local employment program per BMC Section 17.41.060.F is not feasible for this use.

Attachments:

- A. Draft Resolution UP-1-19
- B. Applicant's Vicinity Map and Plan Sheet
- C. Applicant's Photos



Ken Johnson, Senior Planner



John Swiecki, Community Development Director

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ATTACHMENT A

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ATTACHMENT A

RESOLUTION UP-1-19

**A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING INTERIM USE PERMIT UP-1-19
TO PERMIT BILLBOARD (NONAPPURTENANT ADVERTISING STRUCTURE)
TO REMAIN AT THE SOUTHWEST CORNER OF U.S.101 AND BEATTY AVENUE**

WHEREAS, Clear Channel Outdoor, the applicant, applied to the City of Brisbane for Use Permit approval for an existing billboard along the 101 Freeway at Beatty Avenue, such application being identified as Use Permit UP-1-19; and

WHEREAS, on May 9th, 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, the plans and photographs, 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 that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein as Exhibit A in connection with the Use Permit.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of May 9th, 2019, did resolve as follows:

Use Permit Application UP-1-19 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this ninth day of May, 2019, by the following vote:

AYES:

NOES:

ABSENT:

PAMALA SAYASANE
Chairperson

ATTEST:

JOHN A. SWIECKI, Community Development Director

EXHIBIT A

Action Taken: Conditionally approved Use Permit UP-1-19 per the staff memorandum with attachments, via adoption of Resolution UP-1-19.

Findings:

1. Approval of the use permit is consistent with the general plan and any applicable specific plan adopted by the city council, specifically General Plan Policy 332 and Program 35f, in that the 1983 legal settlement agreement allowed for continuation of the subject billboard with the removal of six others.
2. The proposed interim use and the conditions under which it would be operated will not be detrimental to the public health, safety or welfare, or injurious to properties or improvements in the vicinity, in that there has been no material change in the character of the environs of the billboard such as to necessitate its removal, as detailed in the staff memorandum;
3. The proposed interim use will not create any significant unmitigated adverse environmental impacts, as detailed in the staff memorandum;
4. The proposed interim use will not obstruct, interfere with, or delay the intended redevelopment of the property in accordance with the uses anticipated in the General Plan or any adopted specific plan applicable to the site, in that redevelopment of the project site under any Specific Plan that might be approved by the City Council is not anticipated to begin within the requested term of the Interim Use Permit;
5. All public utilities and other infrastructure improvements required in order for the interim use to be conducted in a safe, sanitary, and lawful manner are either available at the site or shall be installed by the applicant, prior to occupancy, in a manner approved by the City Engineer, given the conditions of approval, as detailed in the staff memorandum;
6. The use will provide a benefit to the public, by creation revenues in that outdoor advertising businesses pay an annual business license fee.
7. Given the type of use, it is not reasonably possible to establish a program to encourage employment of Brisbane residents in the construction and operation of the use.

Conditions of Approval:

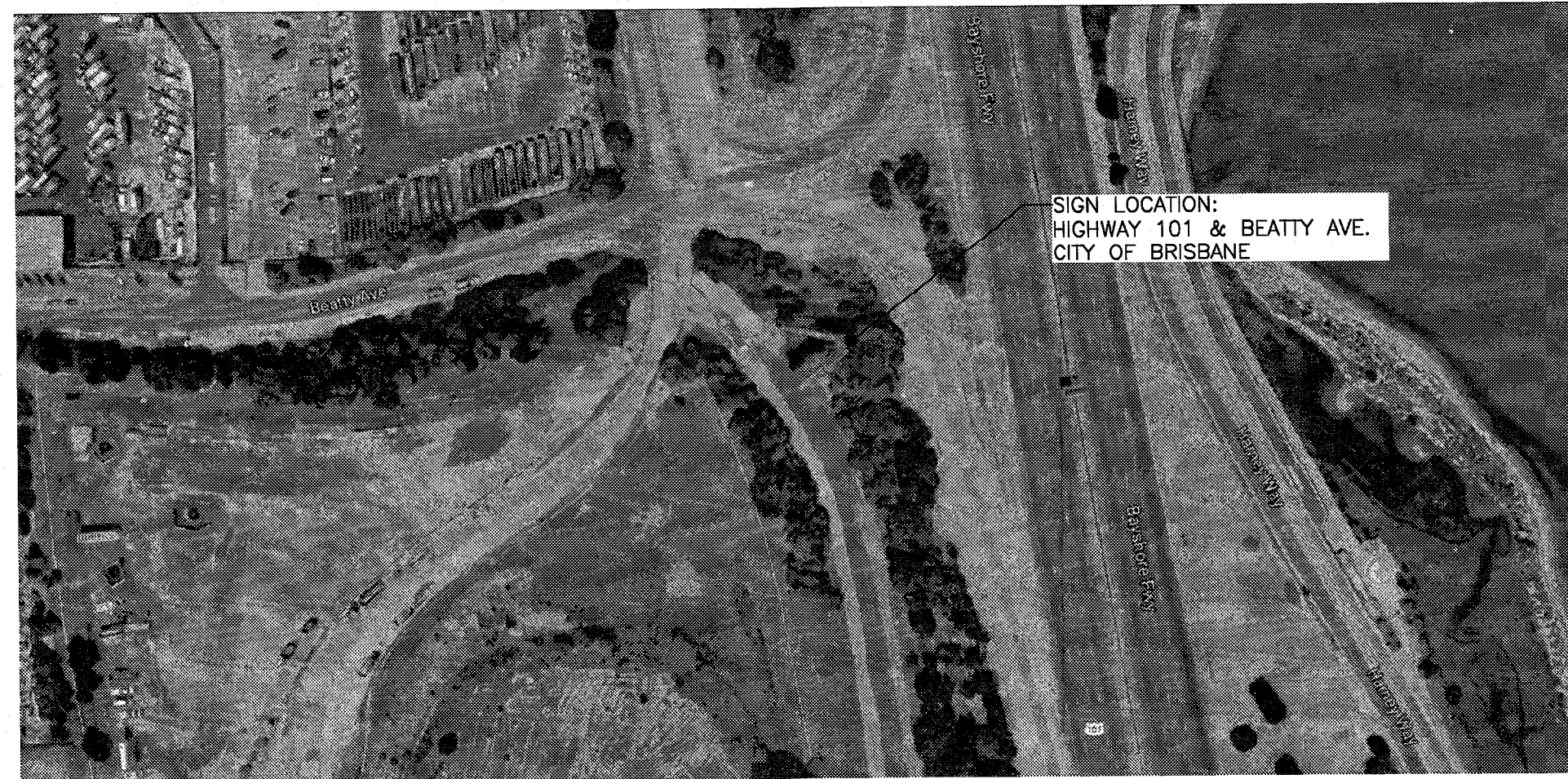
- A. The Interim Use Permit shall be valid for a term of five (5) years from the effective date and shall expire May 17, 2024.
- B. Notwithstanding the five year permit term, the applicant shall remove the sign, if the City determines that the sign will interfere with or obstruct any planned public improvements that require use of the site prior to the permit expiration date. Removal shall be completed within thirty (30) days after written notice to remove is given by City to the applicant.
- C. At the expiration of the Interim Use Permit, or notice from the City to remove the sign, the owner of the sign structure shall cause the structure to be removed at the sole cost and expense of the owner of the structure.
- D. Prior to the expiration of the five (5) year term, the owner of the sign structure may apply for an extension of the Use Permit, and in considering the application for such extension, the City of Brisbane will give due consideration to the character of the neighborhood and environs in which the structure is located and whether there has been a material change therein such that the structure is no longer compatible with the character of said neighborhood.
- E. The right to apply for an extension of the Interim Use Permit, as set forth above, shall not be deemed to establish a vested right in the owner with respect to the Interim Use Permit or the structure therein authorized.

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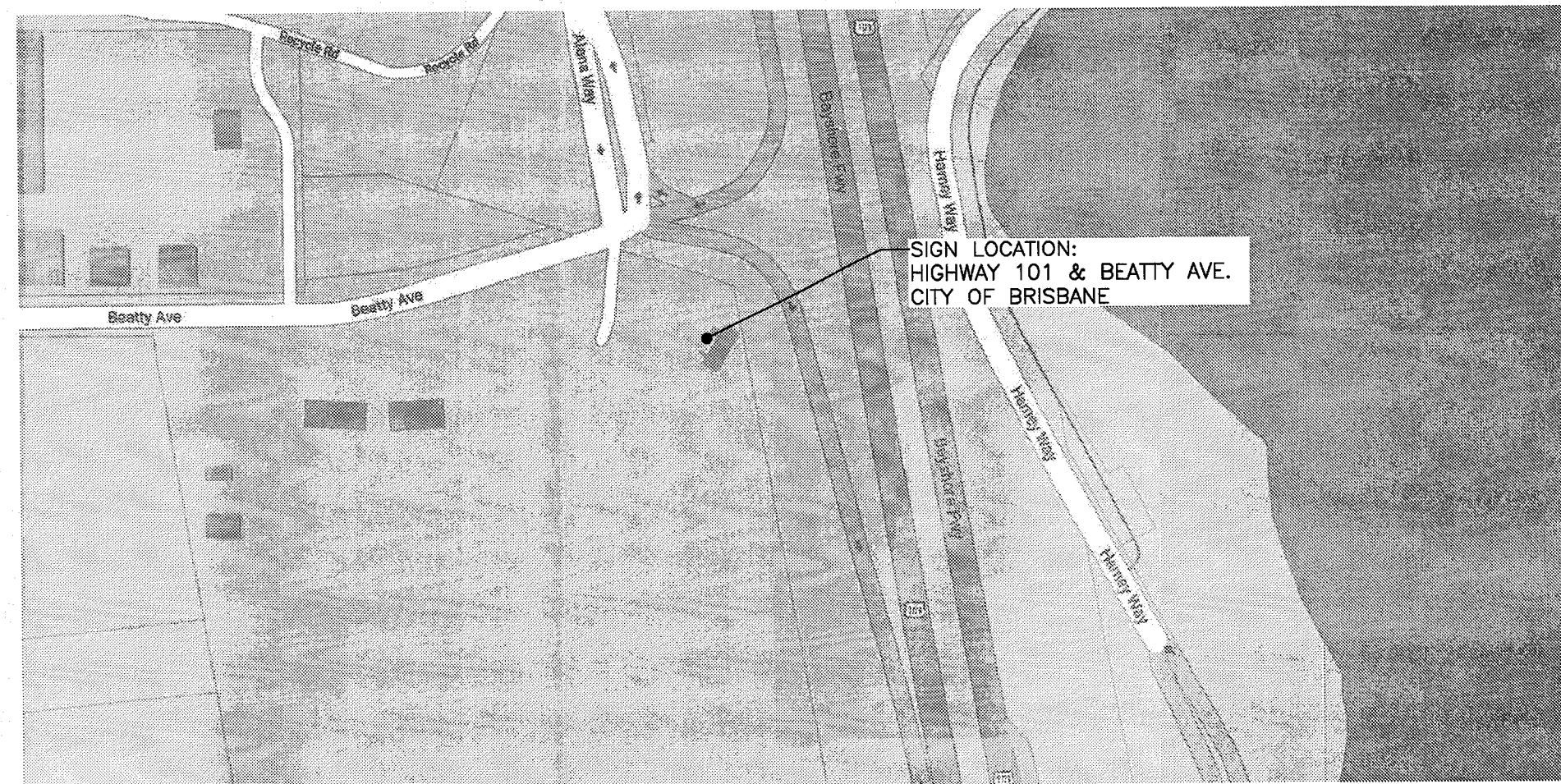
ATTACHMENT B

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AERIAL VIEW



VICINITY MAP



PROJECT INFORMATION

SCOPE OF WORK:

- OBTAIN/RENEW CONDITIONAL USE PERMIT FOR EXISTING ADVERTISING SIGN STRUCTURE
- CLEAR CHANNEL OUTDOOR SIGN NUMBERS 1615 & 1616
- 20x60 V-SIGN
- OVERALL HEIGHT = 55'-0"±

PROJECT DATA:

LOCATION: HIGHWAY 101 & BEATTY AVENUE, CITY OF BRISBANE, CA
 CCO BOARD NO: NORTH FACE NO. 1616 / SOUTH FACE NO. 1615
 APN: 005-340-050
 ZONING: -
 CONSTRUCTION TYPE: TYPE III-B (OUTDOOR ADVERTISING SIGN)
 OCCUPANCY GROUP: GROUP U
 AREA OF WORK: N/A
 JURISDICTION: CITY OF BRISBANE
 APPLICABLE CODES: 2016 CALIFORNIA BUILDING CODE (CBC) & ASCE 7-10

REVISIONS
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AMZ ENGINEERING
 STRUCTURAL ENGINEERING CONSULTANTS

3200 Airport Avenue • Suite 17 • Santa Monica, CA 90405
 Telephone: 310.922.3039 • email: arash@amzengineeringinc.com

PROJECT TEAM

SIGN OWNER:

CLEAR CHANNEL OUTDOOR INC.
 SAN FRANCISCO BAY AREA
 555 12TH STREET, SUITE 950
 OAKLAND, CA 94607
 CONTACT: MR. PATRICK POWERS
 TEL: (510) 835-5900

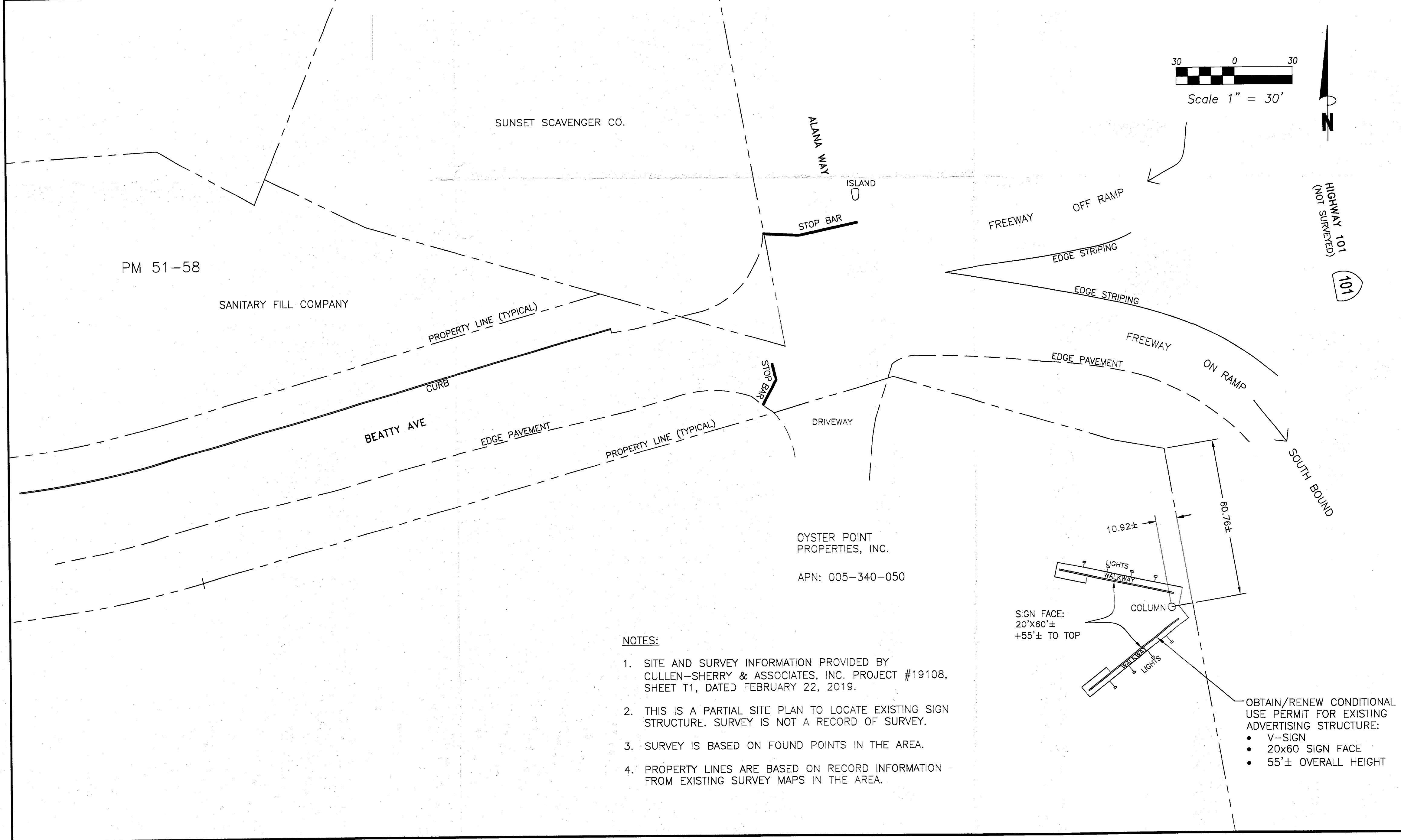
ENGINEER - SIGN STRUCTURE:

AMZ ENGINEERING INC.
 3200 AIRPORT AVENUE
 SUITE 17
 SANTA MONICA, CA 90405
 TEL: (310) 922-3039
 E-MAIL: ARASH@AMZENGEERINGINC.COM

CIVIL ENGINEER / SURVEYOR:

CULLEN-SHERRY & ASSOCIATES INC.
 CIVIL ENGINEERING-SURVEYING
 1090 ADAMS STREET, SUITE A
 BENICIA, CA 94510
 TEL: (707) 745-3219

PARTIAL SITE PLAN

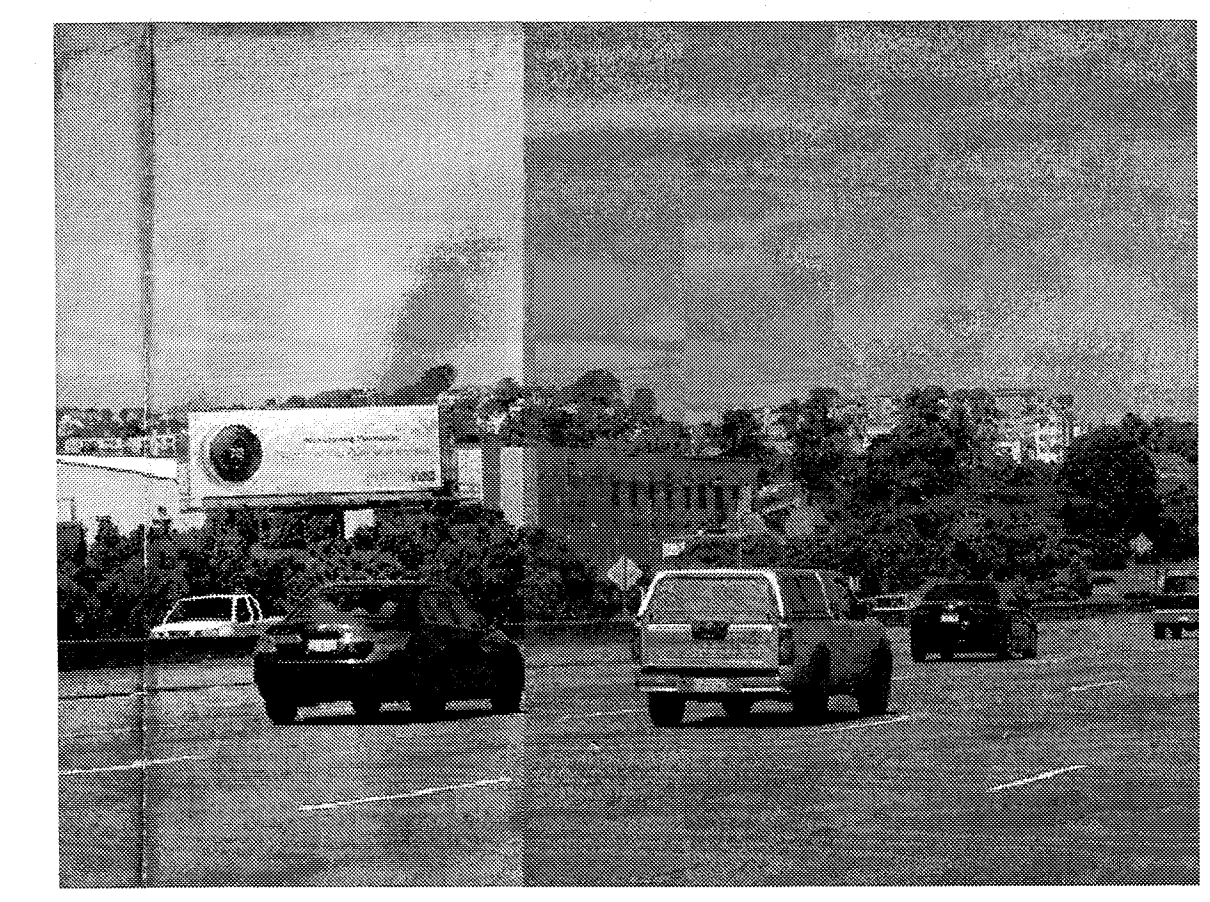


- NOTES:**
- SITE AND SURVEY INFORMATION PROVIDED BY CULLEN-SHERRY & ASSOCIATES, INC. PROJECT #19108, SHEET T1, DATED FEBRUARY 22, 2019.
 - THIS IS A PARTIAL SITE PLAN TO LOCATE EXISTING SIGN STRUCTURE. SURVEY IS NOT A RECORD OF SURVEY.
 - SURVEY IS BASED ON FOUND POINTS IN THE AREA.
 - PROPERTY LINES ARE BASED ON RECORD INFORMATION FROM EXISTING SURVEY MAPS IN THE AREA.

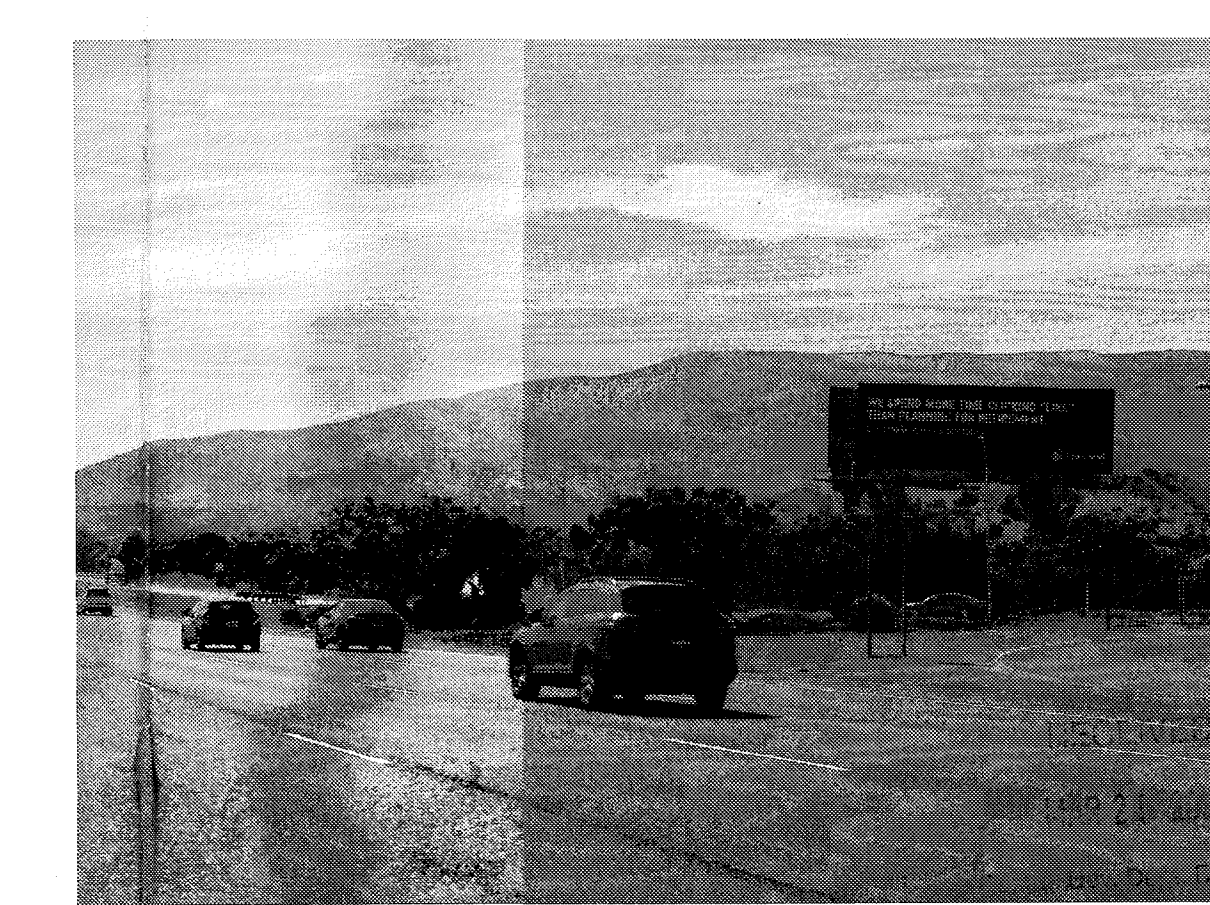
OBTAIN/RENEW CONDITIONAL USE PERMIT FOR EXISTING ADVERTISING STRUCTURE:

- V-SIGN
- 20x60 SIGN FACE
- 55'± OVERALL HEIGHT

SOUTH FACE 1615



NORTH FACE 1616



PREPARED FOR:
 CLEAR CHANNEL OUTDOOR INC.
 SAN FRANCISCO BAY AREA
 555 12TH STREET, SUITE 950
 OAKLAND, CA 94607

EXISTING ADVERTISING SIGN
 20x60 V-SIGN FULL FLAG
 OVERALL HEIGHT = 55'-0"
 APN: 005-340-050
 HIGHWAY 101 & BEATTY AVENUE
 CITY OF BRISBANE, CA

Engineer Stamp:

REGISTERED PROFESSIONAL ENGINEER
 ARASH MOZAFFARIAN
 No. 69771
 Exp. 8/30/2020
 CIVIL
 STATE OF CALIFORNIA

Engineer
 ARASH MOZAFFARIAN
 Date 3-18-2019
 Scale NONE
 Drawn A.M.
 Job 19C03-AMZ
 Sheet
 1
 Of 1 Sheets

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ATTACHMENT C

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Subject Billboard



RECEIVED

MAR 25 2019

Comm. Dev. Dept. Brisbane

NORTHBOUND VIEW

Subject Billboard



RECEIVED

MAR 25 2013

Comm. Dev. Dept. Brisbane



Nest Learning Thermostat
Now in white. Pure and simple.

nest

Clear Channel

001615

RECEIVED

MAR 25 2019

Comm. Dev. Dept. Brisbane

**WE SPEND MORE TIME CLICKING "LIKE"
THAN PLANNING FOR RETIREMENT.**

Let's make time for our future.



001616

Clear Channel