

RESOLUTION NO. 2021-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT FOR A FREEWAY-ORIENTED ELECTRONIC BILLBOARD LOCATED AT 1210 BURTON STREET ON PROPERTY ZONED C-M, COMMERCIAL INDUSTRIAL

PRJ2021-00005 – ZON-2021-0029

APPLICANT: AGE ADVERTISING, LLC  
PROPERTY OWNER: HUOYEN INTERNATIONAL, INC.

RECITALS

WHEREAS the City received an application for a Conditional Use Permit for the property at 1210 Burton Street, more specifically described as Orange County Assessor's Parcel No. 267-033-01.

WHEREAS the Planning Commission of the City of Fullerton held, in compliance with the noticing requirements of Fullerton Municipal Code (FMC) Chapter 15.76, a duly noticed public hearing for ZON-2021-0029 and LRP-2021-00005.

WHEREAS FMC Section 15.49.120.C permits freeway-oriented electronic billboard subject to a review and approval of a Conditional Use Permit.

WHEREAS FMC Section 15.49.120.C.1 requires a Planning Commission recommendation to the to City Council for this Conditional Use Permit.

WHEREAS, the Planning Commission recommended approval to City Council by adoption of Planning Commission Resolution No. PC-2021-27.

WHEREAS FMC Section 15.70.040.D establishes the criteria to consider in evaluating a Conditional Use Permit request and authorizes City Council to approve a project when it can make applicable findings.

RESOLUTION

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON HEREBY RESOLVES AS FOLLOWS:

1. In all respects as set forth in the Recitals of the Resolution.
2. City Council, pursuant to Fullerton Municipal Code Section 15.70.040.D, finds as follows:

- a. Finding: City Council finds the proposed use conditionally permitted in the zone and complies with all applicable zoning standards.

Fact: FMC Section 15.49.120.F permits a freeway-oriented electronic billboard in the C-M, Commercial Manufacturing zone subject to review and approval of a Development Agreement and a Conditional Use Permit pursuant to FMC Chapter 15.70. The project complies with the Physical / Site Requirements identified in FMC Section 15.49.120.F and Operational Requirements identified in FMC Section 15.49.120.G established for the conditional use.

Finding: City Council finds the proposed use consistent with the goals and policies of the General Plan of the City or any specific plan applicable to the area of the proposed use.

Fact: The project supports the following Fullerton Plan policies and goals:

**Policy 11.12:** Public Private Partnerships – Supports projects that facilitate partnerships with property owners and developers to achieve revitalization results that contribute to clean, safe and attractive neighborhood and districts.

**Policy 2.3:** Distinctive Landmarks – Supports project to preserve existing landmarks and encourage the creation of new landmarks that reinforce Fullerton's identity and image.

**Goal 9:** Long-term fiscal strength and stability that has a foundation in local economic assets and adapts to dynamic market conditions.

Fact: The proposed project includes a Development Agreement which provides for an annual monetary public benefit resulting from the installation and operation of the billboard.

Fact: The proposed project provides the public benefit to promote City messages of community interest and information and public safety messages to further reach and promote to the larger community and proactively address public safety concerns.

Fact: The proposed project utilizes the previously approved modern frame design, creating consistency in quality visual appearance and branding of Fullerton from the surrounding freeways.

- b. Finding: That the proposed use as conditioned will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity.

Fact: The proposed project design meets both the physical and operational requirements pursuant to FMC Section 15.49.120. Further, the project must meet

all life safety requirements contained in the California Building Code. The project will also need review and approval from Caltrans which also considers the health, safety and general welfare of those traveling along state roadways and freeways.

- c. Finding: That the project or use demonstrates compliance with the Design Criteria specified in Section 15.47.060 of Chapter 15.47.

Fact: The billboard will feature a modern design with blue and white accents, City identity featured at the top of the sign and the City's logo located on the support structure. The overall size and visibility of the sign from the freeway are consistent and similar in size to the existing billboards in the surrounding area. The design architecturally integrates and screens all bracing, wires and other supporting elements within the sign structure and are not visible from public right-of-way.

3. In accordance with the California Environmental Quality Act (CEQA) Guidelines, City Council finds the proposed project exempt from further review per the following:

#### Section 15303 Class 3 – New Construction or Conversion of Small Structures

Finding: This project consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures and the conversion of existing small structures from one use to another making only minor modifications in the exterior of the structure. The numbers of structures described in this section meet the maximum allowable on any legal parcel.

Fact: The proposed project consists of new construction of a freeway-oriented electronic billboard that would occupy 144 square feet of site area within an existing landscape planter and provide two 14-foot by 48-foot electronic displays, 75-feet in overall height. The site is previously developed and located in an urbanized area. The proposed project is well within the magnitude of construction considered by this exemption.

Pursuant to CEQA Guidelines Section 15300.2, a Class 3 exemption also includes the following considerations:

Finding: Location. The project does not impact an environmental resource of hazard or critical concern where designated, precisely mapped and officially adopted pursuant to law by federal, state or local agencies.

Fact: The California Department of Conservation Farmland Mapping and Monitoring Program classified the site as "Urban and Built-Up Land". The site has no Prime Farmland, Unique Farmland, Farmland of Statewide Importance, forest land or timberland on or near the site nor is the site subject to a Williamson Act contract. The site is not located in an area known as underlain by regionally-important mineral resources. The site does not provide habitat for wildlife

movement and is not near areas of the City that contain significant plant and animal populations (i.e., East Coyote Hills or West Coyote Hills). Furthermore, the project does not propose the removal of any trees.

As with all of Southern California, the site lies in a seismically active region. However, the site does not lie within an Alquist-Priolo Earthquake Fault Zone nor are faults identified within the site. The site is not located in a Liquefaction Zone or Landslide Zone.

The site is located in an area designated as a 500-year flood zone. The project would add a 48 square-foot sign support structure (144 square feet with screen fencing) with all other improvements elevated 60 feet above the existing site. This minimal improvement would neither redirect flood flows nor release pollutants in the event of a flood.

The project will not impact an environmental resource or hazard of critical concern, therefore this project may utilize a categorical exemption.

Finding: Cumulative Impact. The project is not a successive project of the same type in the same place over time is significant.

Fact: FMC Section 15.49.120.F provides physical requirements in order to limit and reduce any potential for cumulative impacts. Specifically, FMC Section 15.49.120.F.1 limits the type of zones freeway-oriented billboards may located in and FMC Section 15.49.120.F.3 limits the minimum distance between two freeway-oriented electronic billboards on the same of side of the freeway to 1000 feet. Although not a freeway-oriented electronic billboard, one billboard exists at 1301 East Burton Road, approximately 1010 feet of the subject site. The proposed project meets the minimum physical requirement limiting any potential cumulative impact, therefore this project may utilize a categorical exemption.

Finding: Significant Effect. No reasonable possibility exists that the activity will have a significant effect on the environment due to unusual circumstances.

Fact: The project site is located within the C-M, Commercial Manufacturing zone and the proposed freeway-oriented billboard is located within an existing landscaped area which meets the required development standards of FMC Section 15.49.120. The site is previously developed and located in an urbanized area. No unusual circumstances exist that will have a reasonable possibility that the activity will have significant effect on the environment. Therefore, this project may utilize a categorical exemption.

Finding: Scenic Highways. A project shall not use a categorical exemption which may result in damage to scenic resources, including but not limited to trees, historic buildings, rock outcroppings or similar resources within a highway officially designated as a state scenic highway.

Fact: Based on review of The Fullerton Plan and the California Department of Transportation (Caltrans) Scenic Highways Program, the only Officially Designated State Scenic Highway in Orange County is the segment of SR-91 from SR-55 to east of the city limits of the City of Anaheim. The subject site is not located near a scenic corridor as identified within The Fullerton Plan (General Plan). Thus, it would not affect scenic resources along an officially designated, eligible Scenic Highway or a scenic corridor and, therefore, this project may utilize a categorical exemption.

Finding: Hazardous Waste Sites. A project shall not use a categorical exemption for a project located on a site included on any list compiled pursuant to Government Code Section 65962.5.

Fact: Lists of hazardous waste facilities identified by Government Code Section 65962.5 do not include this site. Specifically, the Department of Toxic Substances Control does not identify this site on the EnviroStor data management system for tracking cleanup, permitting, enforcement and investigation efforts at hazardous waste facilities and sites with known contamination or sites with reasons to investigate further. Therefore, this project may utilize a categorical exemption.

Finding: Historical Resources. A project shall not use a categorical exemption for a project which may cause a substantial adverse change in the significance of a historical resource.

Fact: The project site is a remnant piece of property owned by the adjacent property (Hotel Fullerton at 1500 South Raymond Avenue) and developed as a landscape planter including turf, lighting and a monument sign for the hotel. The project site is within an urban area and is surrounded by the freeway, streets, a hotel, commercial manufacturing and industrial uses. The project site is not included in the Local Register of Historical Resources in The Fullerton Plan. Also, there are no historical resources or districts adjacent to the project site. Thus, the project will not cause a substantial adverse change in the significance of a historical resource, therefore, this project may utilize a categorical exemption.

#### Section 15332 Class 32 – In-Fill Development

Finding: This project consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures and the conversion of existing small structures from one use to another making only minor modifications in the exterior of the structure. The numbers of structures described in this section meet the maximum allowable on any legal parcel.

Fact: The proposed project is new construction of a freeway-oriented electronic billboard that would occupy 144 square feet of site area within an existing

landscape planter and provide two 14-foot by 48-foot electronic displays, 75-feet in overall height. The site is previously developed and located in an urbanized area. The proposed project is well within the magnitude of construction considered by this exemption.

Pursuant to CEQA Guidelines Section 15300.2, a Class 3 exemption also includes the following considerations:

Finding: Location. The project does not impact an environmental resource of hazard or critical concern where designated, precisely mapped and officially adopted pursuant to law by federal, state or local agencies.

Fact: The California Department of Conservation Farmland Mapping and Monitoring Program classifies the site as “Urban and Built-Up Land”. There is no Prime Farmland, Unique Farmland, Farmland of Statewide Importance, forest land or timberland on or near the site nor is the site subject to a Williamson Act contract. The site is not located in an area underlain by regionally-important mineral resources. The site does not provide habitat for wildlife movement and is not near areas of the City that contain significant plant and animal populations (i.e., East Coyote Hills or West Coyote Hills). Furthermore, the project does not propose the removal of any trees.

As with all of Southern California, the site lies in a seismically active region. However, the site does not lie within an Alquist-Priolo Earthquake Fault Zone nor are faults identified within the site. The site is not located in a Liquefaction Zone or Landslide Zone.

The site is located in an area designated as a 500-year flood zone. The project would add a 48 square-foot sign support structure (144 square feet with screen fencing) with all other improvements elevated 60 feet above the existing site. This minimal improvement would neither redirect flood flows nor release pollutants in the event of a flood.

The project will not impact an environmental resource or hazard of critical concern; therefore, this project may utilize a categorical exemption.

Finding: Cumulative Impact. The project is not a successive project of the same type in the same place over time is significant.

Fact: FMC Section 15.49.120.F provides physical requirements to limit and reduce any potential for cumulative impacts. Specifically, FMC Section 15.49.120.F.1 limits the type of zones to locate freeway-oriented billboards and FMC Section 15.49.120.F.3 limits the minimum distance between two freeway-oriented electronic billboards on the same of side of the freeway to 1000 feet. Although not a freeway-oriented electronic billboard, one billboard exists at 1301 East Burton Road, approximately 1010 feet of the subject site. The proposed project meets the

minimum physical requirement limiting any potential cumulative impact; therefore, this project may utilize a categorical exemption.

Finding: Significant Effect. No reasonable possibility exists that the activity will have a significant effect on the environment due to unusual circumstances.

Fact: The project site is located within the C-M, Commercial Manufacturing zone. The proposed freeway-oriented billboard is located within an existing landscaped area and meets the required development standards of FMC Section 15.49.120. The site is previously developed and located in an urbanized area. No unusual circumstances exist that will have a reasonable possibility that the activity will have significant effect on the environment; therefore, this project may utilize a categorical exemption.

Finding: Scenic Highways. A project shall not use a categorical exemption which may result in damage to scenic resources, including but not limited to trees, historic buildings, rock outcroppings or similar resources within a highway officially designated as a state scenic highway.

Fact: Based on review of The Fullerton Plan and the California Department of Transportation (Caltrans) Scenic Highways Program, the only Officially Designated State Scenic Highway in Orange County is the segment of SR-91 from SR-55 to east of the city limits of the City of Anaheim. The subject site is not located near a scenic corridor as identified within The Fullerton Plan (General Plan). Thus, it would not affect scenic resources along an officially designated, eligible Scenic Highway or a scenic corridor; therefore, this project may utilize a categorical exemption.

Finding: Hazardous Waste Sites. A project shall not use a categorical exemption for a project located on a site included on any list compiled pursuant to Government Code Section 65962.5.

Fact: Lists of hazardous waste facilities identified by Government Code Section 65962.5 do not include this site. Specifically, the Department of Toxic Substances Control does not identify this site on the EnviroStor data management system of for tracking cleanup, permitting, enforcement and investigation efforts at hazardous waste facilities and sites with known contamination or sites with reasons to investigate further. Therefore, this project may utilize a categorical exemption.

Finding: Historical Resources. A project shall not use a categorical exemption which may cause a substantial adverse change in the significance of a historical resource.

Fact: The project site is a remnant piece of property owned by the adjacent property (Hotel Fullerton at 1500 South Raymond Avenue) and developed as a

landscape planter including turf, lighting and a monument sign for the hotel. The project site is within an urban area and is surrounded by the freeway, streets, a hotel, commercial manufacturing and industrial uses. The Local Register of Historical Resources in The Fullerton Plan does not include the site. Also, there are no historical resources or districts adjacent to the project site. Thus, the project will not cause a substantial adverse change in the significance of a historical resource and therefore, this project may utilize a categorical exemption.

#### Section 15332 Class 32 – In-Fill Development

Finding: The project is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with applicable zoning designation and regulations.

Fact: The site is zoned C-M, Commercial Manufacturing with a general plan land use designation of Industrial. The project proposes to retain these existing classifications and construct and operate a freeway-oriented electronic billboard, a use requiring a DA and CUP. The proposed project complies with the corresponding specific provisions and requirements established by 15.49.120.F and G.

Finding: The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

Fact: The project site is 0.32 acres in size. It is an infill site in a generally urbanized area consisting of a mix of commercial and industrial uses.

Finding: The site has no value as habitat for endangered, rare or threatened species.

Fact: The project site was a remnant piece of property owned by the adjacent property (Hotel Fullerton at 1500 South Raymond Avenue) and developed as a landscape planter including turf, lighting and a monument sign for the hotel. The project site is within an urban area and surrounded by the freeway, streets, a hotel, commercial manufacturing and industrial uses.

Fact: Although no wildlife species were observed on the project site, there is potential for the presence of common animal species typically found in urban areas, such as small mammals, birds, small reptiles and insects. No natural or sensitive biological resources are present on the project site and the proposed project would not impact any candidate, sensitive or special status plant or animal species.

Finding: Approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality.



Fact: Operation of the proposed freeway-oriented electronic billboard would generate only minimal vehicle trips, mainly attributable to construction vehicles and operational maintenance vehicles. However, these vehicle trips will be nominal, temporary and sporadic and do not meet the threshold to review under the City's Transportation Assessment Policies and Procedures (TAPP). During construction activity, the applicant must prepare and implement a temporary traffic control plan, as warranted and required by City standards.

Fact: The proposed freeway-oriented electronic billboard would be oriented and visible primarily from SR-91 but also visible from surrounding public streets. The proposed project would not create a hazard as the constructed billboard adhere to all Caltrans regulations for placement, reflection and visibility. FMC 15.49.120 and State law also establish lighting and glare requirements and minimum 1000-foot spacing distance between billboards. Further, the project requires submittal to Caltrans for review and approval. With adherence to existing Federal, State and local regulations regarding billboard signs and no hazard impacts are anticipated.

Fact: The project site is located in an urbanized area along the California State Route 91 (SR-91). Traffic noise from SR-91 and surrounding industrial uses primarily generate the existing ambient noise level in the area. The proposed billboard will not include any noise generating components. Long-term operations of the freeway oriented electronic billboard would not result in exposure of noise levels that exceed the standards of the Municipal Code nor would the long-term operations of the proposed project exceed ambient noise level conditions. Further, the project must meet the City's Noise Ordinance for the City of Fullerton for any short-term construction-related noise.

Fact: The proposed project is new construction of a freeway-oriented electronic billboard that would occupy 144 square feet of site area within an existing landscaped area and provide two 14-foot by 48-foot electronic displays, 75-feet in overall height. The project includes limited construction on site for the sign structure and foundation. Off-site facilities will fabricate the sign components. Thus, this project generates minimal construction impacts to air quality in scope and duration. Additionally, the nature, the proposed project would not have any direct operational impacts that would affect air quality, including from trips made to the site for operational vehicles. The proposed project would assumedly use a nominal amount of electricity for illumination purposes for the LED lighting.

Fact: Operation of the freeway-oriented electronic billboard would not involve the use of water to operate. The site is completely built over or paved and construction of the billboard will not substantially alter the existing drainage pattern of the site nor contribute to an increase in surface runoff.

Finding: All required utilities and public services can adequately serve the site.

Fact: Existing electric and all telecommunication systems serve the site. The

project will place all proposed utilities that provide direct service to the subject property underground, where possible.

THEREFORE, City Council does hereby approve said Conditional Use Permit, subject to the following conditions of approval:

1. Approval of Conditional Use Permit ZON-2021-0029 is contingent on the approval of Development Agreement LRP-2021-0005. Should City Council not approve Development Agreement LRP-2021-0005, Conditional Use Permit ZON-2021-0029 shall be similarly denied.
2. The property shall be in substantial conformance with the plans, descriptions and statements provided by the applicant, excepting any modifications made by City Council. This includes, but is not limited to, the submitted plans and agreements (Attachment 1). Upon significant changes to the plans, descriptions and statements provided by the applicant, as determined by the Director of Community and Economic Development, staff shall initiate a review of the CUP at noticed public hearings before the Planning Commission and City Council.
3. At all times, the freeway-oriented electronic billboard shall operate consistent with all terms of a valid and current development agreement. If the initial development agreement approved as PRJ2021-00005 – LRP-2021-0005 has expired, and the parties have not entered into a new or extended development agreement, then the applicant shall operate consistent with the initial development agreement.
4. Upon plan check submittal, the applicant will update the plans to plainly display the billboard identification number on the elevations.
5. Upon plan check submittal, the applicants will update the proposed screen fencing to reflect tubular steel and/or a similar material compatible with design of the sign, with creeping vine landscaping, for review and approval by the Director of Community and Economic Development.
6. The project shall route all conduit underground to an above-ground meter pedestal located within the screen fenced area, as depicted in Attachment 1.
7. The project shall screen all exposed portions of billboards, including backs, sides, structural support members and support poles from public view. Upon submittal of construction plans, the applicant shall update plans to provide screening for any exposed areas along the south elevation.
8. Prior to issuance of a building permit, provide documentation for approvals provided by Caltrans. Applicant shall be responsible for all coordination and approvals with Caltrans.

9. The applicant shall agree to indemnify, hold harmless and defend the City of Fullerton, its officers, agents and employees from any and all liability or claims, including without limitation any actions taken pursuant to the California Environmental Quality Act (CEQA) with respect thereto, that may be brought against the City arising out of this approval or arising out of the operation of the business, save and except that caused by the City's active negligence. Said indemnity obligation shall include payment of any costs related to staff, consultant and reasonable attorney's fees, expert witness fees and court costs.
10. Applicant shall submit construction plans to the Community and Economic Development Department for review and issuance of any future building permit(s).
11. Applicants shall include the following items in their formal building plan check submittal:
  - a. Soils Report pursuant to California Building Code Section 1803.2. Soils report shall include information on the type of footing construction. If the project plans for a spread footing, please verify the depth and width of the footing excavation. Grading operations for footing may require the development of a grading plan and an erosion and sediment control plan.
  - b. Structural plans, details and calculations to show proposed billboard sign has been designed and constructed to withstand seismic loads and wind pressures as provided for in Chapter 16 of the California Building Code.

#### Public Works Conditions of Approval

##### Project Specific:

12. Due to the potential for vehicular access to the proposed billboard from the street, the applicant shall replace a 15-foot wide section of vertical curb and gutter on Burton Street with a rolled curb and gutter, using a standard plan section provided by the City's Engineering Division. Applicant shall obtain an encroachment permit to construct this curb and gutter replacement prior to construction of the new billboard.
13. Upon plan check submittal, the applicant shall update plans to show existing water meter, backflow assembly and other underground enclosures on plans. The existing water meter shall meet City Standard 121.

##### General Conditions:

14. The project shall construct all work in the public right of way in accordance with the Standard Plans and Standard Specifications for Public Works Construction, latest edition. This includes supplements thereto and City of Fullerton Standard Drawings.

15. Before undertaking any grading or construction work of any type within the public right of way, the owner must first obtain the applicable permits from the Public Works Department.
16. During site improvement, all overweight or oversize deliveries to the project site will require a transportation permit from the Public Works Department.
17. The developer shall provide and maintain all necessary flag persons, barricades, delineators, signs, flashers and any other safety equipment as set forth in the latest publication of the State of California, Manual of Traffic Control or as required by the Public Works Department permit requirements to ensure safe passage of pedestrian and vehicular traffic.
18. Street trenches required for the installation of utility connections shall comply with City of Fullerton Standard No. 312.
19. The developer shall install, provide and supply all of the public improvements, studies, designs, plans, calculations and other requirements in accordance with City and State codes, policies and requirements at no cost to the City. All work shall comply with City standards and specifications and with the City of Fullerton Municipal Codes.
20. According to FMC Section 16.05.060, the project shall install underground all proposed utilities that provide direct service to the subject property, including electric and all telecommunication systems as well as underground all existing facilities providing direct service to the development.
21. The plans shall show all existing public and private easements. The proposed development shall not affect the easements. The developer shall receive approval from and coordinate any modification to an existing public and/or private easement with applicable easement owners.
22. Site grading shall adhere to the approved grading plan (if applicable). The applicant shall complete site grading prior to issuance of building permits. Any deviations from the approved grading plan will require a submittal of grading plan revision for the City Engineer's review and approval.

Planning Commission Condition of Approval

23. The maximum overall height of the sign shall be limited to 75-feet as measured from the grade to the top of the border frame.

ADOPTED BY THE FULLERTON CITY COUNCIL ON OCTOBER 19, 2021.

---

Bruce Whitaker  
Mayor

ATTEST:

---

Lucinda Williams, MMC  
City Clerk

---

Date

Attachment:

Attachment 1 – Plans (See plans attached to DA)