

**NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE
AMENDMENTS TO TITLE 23 OF THE SAN JOSÉ MUNICIPAL CODE FOR SIGNS,
INCLUDING BILLBOARDS, PROGRAMMABLE ELECTRONIC SIGNS, AND SIGNS
DISPLAYING OFF-SITE COMMERCIAL SPEECH, ON NON CITY OWNED SITES**

FILE NO: PP20-004

Project Description: The proposed project would amend Title 23 (Sign Ordinance) of the San José Municipal Code to 1) allow free-standing billboard structures on freeway-facing non-City-owned sites, and consider building-mounted programmable signage and signs displaying off-site commercial speech on certain non-City owned sites within the Downtown Sign Intensification Zone and the North San Jose Development Policy Area, 2) explore signage on public right-of-way to allow off-premise commercial advertising along public amenities, street furniture, and transit facilities, and 3) evaluate illumination parameters for illuminated and programmable signs. **Location:** non-City owned sites as identified Citywide, within Downtown Sign Zone and North San Jose Development Policy Area.

As the Lead Agency, the City of San José will prepare an Environmental Impact Report (EIR) for the project referenced above. The City welcomes your input regarding the scope and content of the environmental information that is relevant to your area of interest, or to your agency's statutory responsibilities in connection with the proposed project. If you are affiliated with a public agency, this EIR may be used by your agency when considering subsequent approvals related to the project.

A joint community and environmental public scoping meeting for this project will be held:

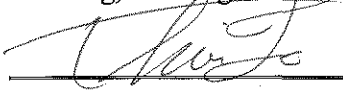
When: Monday, March 30, 2020 from 6:30-8:00 p.m.

Where: Wing Rooms 119-120, San Jose City Hall, 200 E. Santa Clara Street, San Jose, CA 95113

The project description, location, and probable environmental effects that will be analyzed in the EIR for the project can be found on the City's Active EIRs website at www.sanjoseca.gov/activeeirs, including the EIR Scoping Meeting information. According to State law, the deadline for your response is 30 days after receipt of this notice. However, responses earlier than 30 days are always welcome. If you have comments on this Notice of Preparation, please identify a contact person from your organization, and send your response to:

City of San José
Department of Planning, Building and Code Enforcement
Attn: Ranu Aggarwal, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San José CA 95113-1905
Phone: (408) 535-6894, e-mail: Ranu.Aggarwal@sanjoseca.gov

Rosalynn Hughey, Director
Planning, Building and Code Enforcement



Deputy



Date

**NOTICE OF PREPARATION
OF AN ENVIRONMENTAL IMPACT REPORT
FOR AMENDMENTS TO TITLE 23 OF THE SAN JOSÉ MUNICIPAL CODE
(THE SIGN CODE) FOR SIGNS, INCLUDING BILLBOARDS, PROGRAMMABLE
ELECTRONIC SIGNS, AND SIGNS DISPLAYING OFF-SITE COMMERCIAL SPEECH,
ON NON CITY OWNED SITES
March 2020**

Introduction

The purpose of an Environmental Impact Report (EIR) is to inform decision-makers and the general public of the environmental impacts of a proposed project that an agency may implement or approve. The EIR process is intended to provide information sufficient to evaluate a project and its potential for significant impacts on the environment, to examine methods of reducing adverse impacts, and to consider alternatives to the project.

The EIR for the proposed project will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended. In accordance with the requirements of CEQA, the EIR will include the following:

- An executive summary;
- A project description;
- A description of the existing environmental setting, environmental impacts, and mitigation measures for the project;
- Alternatives to the project as proposed; and
- Environmental consequences, including (a) significant environmental effects that cannot be avoided if the project is implemented; (b) significant irreversible and irretrievable commitments of resources; (c) growth inducing impacts of the proposed project; and (d) cumulative impacts.

Background

Title 23 (Sign Ordinance) of the San José Municipal Code currently does not allow new off-site commercial advertising for non-City-owned sites, that include both privately-owned property and properties owned or controlled by public entities other than the City. In 1985, the San José City Council adopted a citywide ban on new signs displaying “off-site commercial speech,”¹ including billboards, in response to the community concerns about blight, visual clutter, and message content.

¹ *Off-site commercial speech" means commercial speech that identifies or promotes any commercial activity, product, good or service that is conducted, manufactured or offered on a site that is not the site on which the commercial speech is displayed and that is not conducted, manufactured or offered on the same parcel of land on which the commercial speech is displayed.*

More recently, following requests from billboard representatives, business associations, public entities, and private business owners to consider removing the billboard ban, the City Council prioritized the exploration of electronic digital off-site advertising signs or billboard installations or allowing some exceptions to the ban, such as creating provisions for exchanging static billboards for electronic billboards.

On December 19, 2017, the City Council directed staff to investigate removing existing barriers to off-premise (off-site) commercial advertising within the City of San José, and implement a phased work plan to allow the following:

- a. Phase I: New off-site advertising on City-owned sites
- b. Phase II: New off-site advertising on non-City-owned sites, including privately-owned, publicly-owned, and signage on public right-of-way.

On September 25, 2018, the City Council approved amendments to General Plan Land Use Policy CD 10.4, City Council Policy 6-4, and Title 23 of the San Jose Municipal Code to facilitate new Programmable Electronic Signs, and Signs Displaying Off-site Commercial Speech on identified city-owned parcels as part of the Phase I process and proceed with Phase II of the work plan to evaluate non-City-owned sites.

Project Description

The proposed project is an amendment to Title 23 (Sign Ordinance) of the San José Municipal Code to accomplish the following, in accordance with City Council Direction, and State and federal regulation:

- Allow free standing billboard structures on freeway-facing non-City-owned sites and consider building-mounted programmable signage and signs displaying off-site commercial speech on certain non-City owned sites that are within the Downtown Sign Intensification Zone and the North San Jose Development Policy Area boundary, but not within identified Urban Village boundaries. These sites are shown in the maps attached at the end of this Notice of Preparation. The project would allow replacement of existing traditional static billboards with new electronic billboards at a ratio of 4:1. It is assumed that approximately 50 new electronic billboards would likely be allowed in the City, and the proposed project could result in the removal of 200 existing static billboards.
- Explore signage on public right-of-way that could allow off-premise commercial advertising along public amenities, street furniture, and transit facilities (Light Rail platforms, Bus Shelters), including Right-of-Way for public entities. Commercial signage possibilities on other forms of street furniture, except for bus shelters, is typically restricted on primary arterials, and this evaluation would result in identification of potential sections of non-arterial streets eligible for off-site signage. The State regulates advertising on bus shelters located along Light Rail corridors with opportunities for public entities. These properties may include but are not limited to parcels owned or controlled by the County of Santa Clara, the State, the Federal Government, public school districts, public transportation agencies, and the Santa Clara Valley Water District.

- Evaluate illumination parameters for desired modification of tilt requirement to allow mitigation with alternative use of technology and removal of restriction on white or bright backgrounds and evaluate alternatives to further lower the non-operating hours for illuminated and programmable signs. These signs are required to be completely shut off between 12:00 a.m.- 6:00 a.m. The City Council directed staff to evaluate operating hours between 6:00 a.m.- 5:00 a.m.

No specific signs are currently proposed as part of the project.

Project Location

The attached maps identify the Non-City owned sites, as potential locations for the signs. This selection was subject to the same restrictions as the previously identified City-owned parcels, and consideration of federal and State Outdoor Advertising regulations. The following criteria governed the site selection:

1. Property that has a General Plan land use designation or Transportation Diagram designation other than Open Space, Parkland, Habitat, Lower Hillside, Agriculture, Private Recreation and Open Space, Open Hillside, Mixed-use Neighborhood, Transit Residential, Urban Residential, or Residential Neighborhood.
2. Property that is located within a Zoning district other than OS Open Space or A Agriculture.
3. Any new Sign must be consistent with Council Policy 6-34 (Riparian Corridor Protection and Bird Safe Design).
4. A Sign can be located on the site consistent with City policies and design guidelines for development in proximity to or on structures designated as historical resources as defined in CEQA Guidelines Section 15064.5, or historical landmarks or candidate historic landmarks by the City, State, or Federal government, and shall conform to the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, as well as Chapter 13.48, "Historic Preservation," of Title 13 of the Municipal Code.
5. Locating a Sign on a site would be compatible with any existing use on the site or any potential use of the site for the purposes other than a sign.

Additional sites may also be identified in the future based on the abovementioned criteria.

Federal and State Regulatory Implications

Federal Regulations: The Federal Highway Beautification Act of 1965 (23 U.S.C.131) regulates outdoor advertising, including removal of certain types of signs, along the interstate highway system. As of October 2012, the interstate highway system, regulated by the Federal Highway Administration (FHWA) includes several principal arterials in San José as well as the freeways in San José (the complete map of federal interstate highways is known as MAP 21.)

State Regulations: FHWA and the California Department of Transportation (Caltrans) have an agreement for the control of off-site displays along state highways. Such displays include those advertising products or services of businesses located on properties other than that on which the display is located, or displays which advertise a brand name, trade name, product or service only incidental to the principal activity conducted on the property, or from which the business or property owner derives rental income. Caltrans also exercises limited control over on-site signs. The California Outdoor Advertising Act (Business & Professions Code Section 5200 et seq) contains several provisions relating to the construction and operation of signs.

Restrictions on Landscaped Freeways: Caltrans also controls signage along landscaped freeways. A landscaped freeway is a segment of freeway that is improved by the planting of lawns, trees, shrubs, flowers, or other ornamental vegetation requiring reasonable maintenance on one or both sides of the freeway (§5216). No new off-site advertising display may be placed or maintained on a property adjacent to a landscaped freeway if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway (§ 5440), except as part of a relocation agreement approved by Caltrans pursuant to §5412, or in one of the category of displays that have been expressly exempted from the landscaped freeway prohibition, such as certain advertising related to large arenas (§5272[b]).

Potential Environmental Impacts of the Project

The EIR will identify the significant environmental impacts anticipated to result from the proposed project. Mitigation measures will be identified for significant impacts, as warranted. The EIR will discuss in detail the following environmental resource areas as related to the proposed project:

1. Aesthetics

The EIR will describe the existing visual character of the proposed signage sites and vicinity, and the impacts to visual character resulting from the Sign Ordinance amendments. The EIR will evaluate project consistency with applicable zoning and other regulations governing scenic quality. Light and glare impacts (based on the maximum light levels of the signs, hours of operation, and animation details) will be described based upon the parameters outlined in the proposed Sign Ordinance amendments.

2. Biological Resources

The EIR will describe the existing biological resources setting in the vicinity of the identified sites that could accommodate a sign under the proposed Sign Ordinance amendments.

This section of the EIR will evaluate potential impacts to wildlife and birds, riparian corridors and wetlands as well as other potential biological resources impacts resulting from installation of the signs.

3. Energy

Implementation of the proposed project will result in an increased demand for energy on-site. The

EIR will address energy usage, the potential for energy waste, consistency with energy-related policies, as well as design measures to reduce energy consumption.

14. Greenhouse Gas Emissions

The EIR will address the proposed project's contribution to regional and global greenhouse gas emissions based on Bay Area Air Quality Management District thresholds. The EIR will describe greenhouse gas emissions at a program-level resulting from implementation of the Sign Ordinance amendments and discuss any energy efficiency requirements and design measures to reduce greenhouse gas emissions (e.g., use of LEDs).

4. Land Use

The EIR will describe existing and surrounding land uses and land use compatibility issues associated with implementation of the proposed Sign Ordinance amendments. The EIR will evaluate project compliance with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. These include policies and regulations within the City's General Plan, Riparian Corridor Policy, Sign Ordinance, Airport Land Use Commission requirements for Mineta San José International Airport, and Federal Aviation Administration requirements.

5. Transportation and Circulation

The EIR will describe any potential traffic safety issues associated with implementation of the proposed Sign Ordinance amendments, based upon the parameters outlined in the proposed Sign Ordinance amendments.

6. Alternatives

The EIR will examine alternatives to the proposed project, including a No Project alternative and one or more alternative development scenarios depending on the impacts identified. Alternatives discussed will be chosen based on their ability to reduce or avoid identified significant impacts of the proposed project, while still achieving most of the identified project objectives.

7. Significant Unavoidable Impacts

The EIR will identify those significant impacts that cannot be avoided, if the project is implemented as proposed.

8. Cumulative Impacts

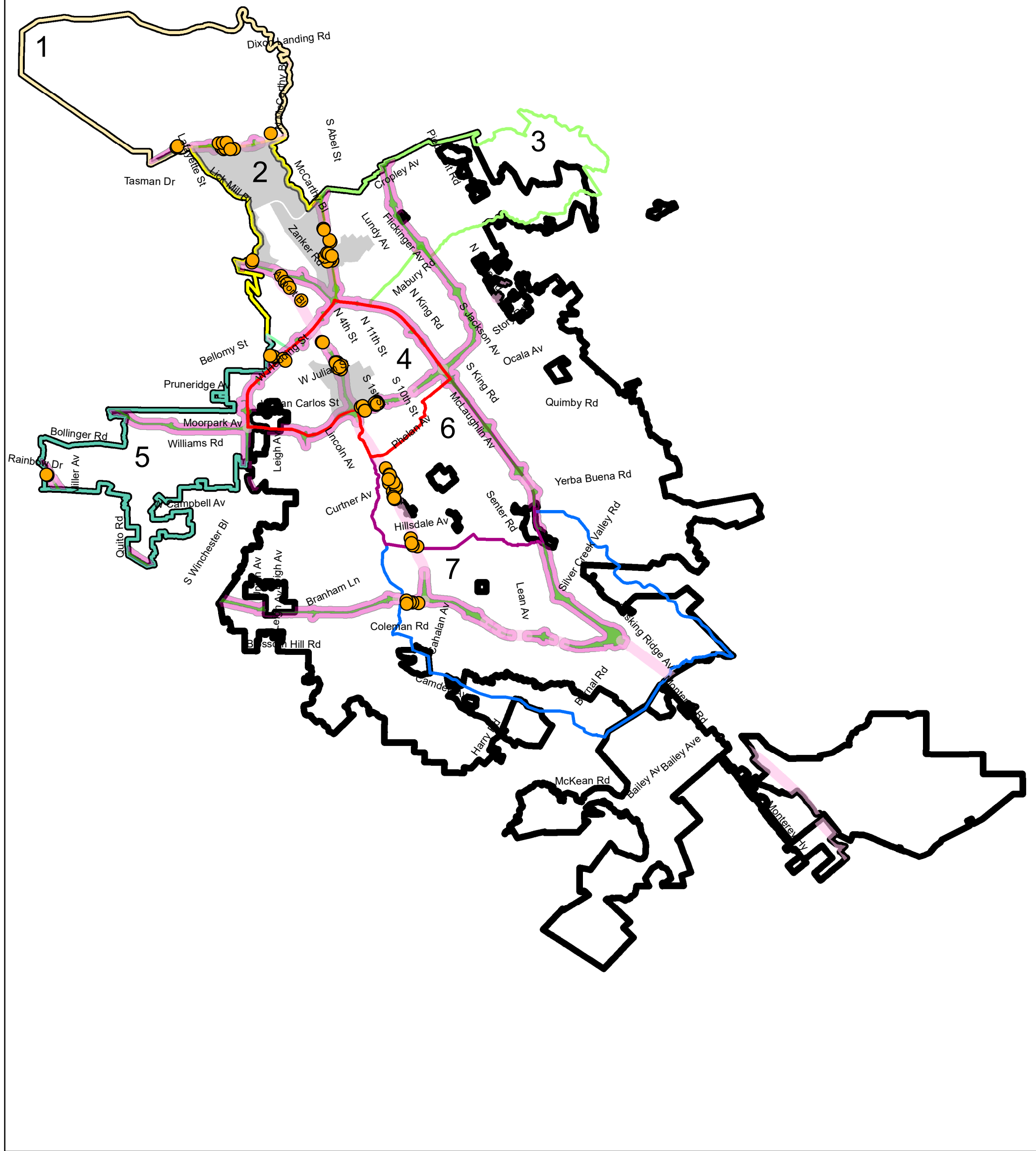
The EIR will include a Cumulative Impacts analysis that will address impacts of the project when considered with other past, present, and reasonably foreseeable future projects in the development area.

9. *Other Required Sections*

In conformance with the CEQA Guidelines, the EIR will also include the following sections: 1) growth-inducing impacts, 2) significant irreversible environmental changes, 3) references and organizations/persons consulted, and 4) EIR authors.

Attachment A: Maps showing signage areas

Freeway Buffered Areas for City of San Jose

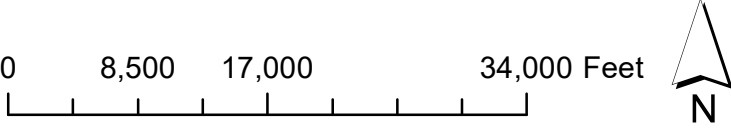


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|-----------------------------------|--------|-------------------------|
| Parcel Selection (Non-City-owned) | Zone 1 | Zone 6 |
| City Limits | Zone 2 | Zone 7 |
| Freeway Landscaped Area | Zone 3 | North San Jose Boundary |
| Freeway Landscaped Buffered | Zone 4 | Downtown Boundary |
| Freeway Non Landscaped Buffered | Zone 5 | |

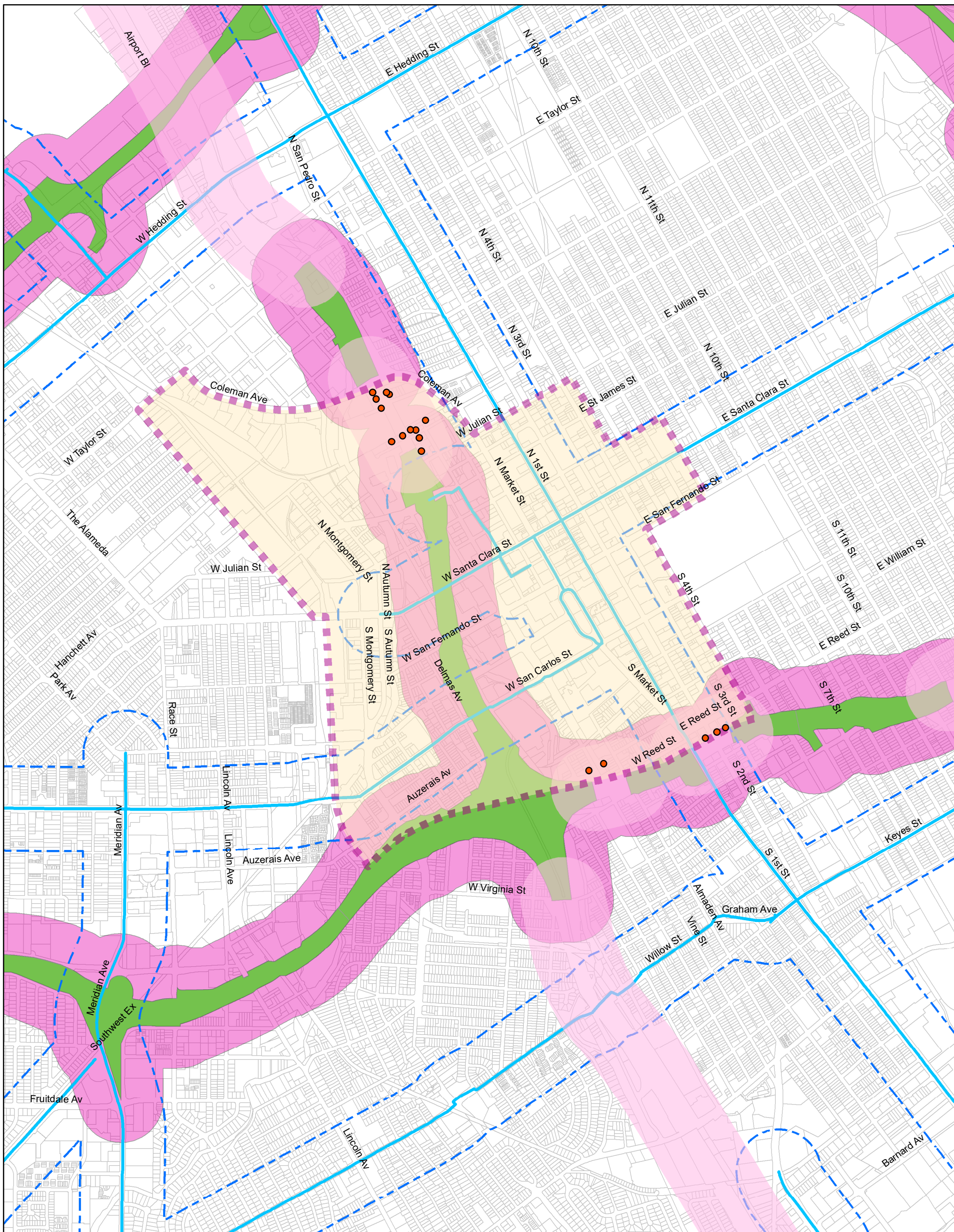










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Freeway Buffered Areas for Signs in Downtown

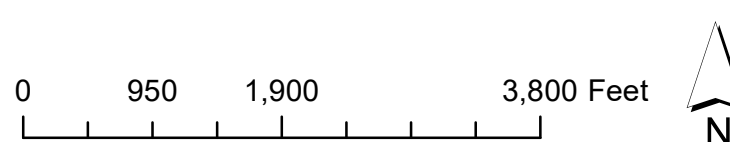


-  Identified Parcels (17) for Signage Phase 2
  Principal Arterials Buffer
-  Downtown Boundary
  Freeway Landscaped Area
-  Parcels
  Freeway Landscaped Buffered
-  Principal Arterial Streets
  Freeway Non Landscaped Buffered



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The map displays the proposed alignment for the San Jose BART extension, highlighted in green. The alignment starts near the San Jose Airport and extends towards the city center. The map includes a network of roads, with major thoroughfares like De La Cruz Blvd, E Brokaw Rd, and E Tasman Dr. The surrounding area is shaded in pink, indicating the project's impact zone. The map also shows the existing BART system with blue lines and stations. The map is labeled with various street names and landmarks, such as the San Jose Airport and the San Jose City Center. The map is credited to Esri, HERE, Garmin, and the GIS user community.

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