



CITY COUNCIL AGENDA REPORT

MEETING DATE: FEBRUARY 1, 2011

ITEM NUMBER:

SUBJECT: NEW COUNCIL POLICY 500-16 FOR COMMUNITY EVENT STREETWIDE BANNERS

DATE: JANUARY 19, 2010

FROM: DEVELOPMENT SERVICES DEPT. AND PUBLIC SERVICES DEPT.

**PRESENTATION BY: CLAIRE FLYNN, PLANNING ADMINISTRATOR
RAJA SETHURAMAN, TRANSPORTATION MANAGER**

**FOR FURTHER INFORMATION CONTACT: CLAIRE FLYNN (714)754 5278
cflynn@ci.costa-mesa.ca.us**

RECOMMENDATION:

1. Approve proposed Council Policy 500-16.
2. Direct staff to prepare a "Community Event Streetwide Banner Agreement" document for Banners Displayed on City Poles across a public street.

BACKGROUND:

The Planning Commission is interested in allowing the installation of special event street banners that would be displayed across a public street. In Orange County, these types of street banners may typically be associated with historic downtown areas (i.e. Old Town Orange, San Clemente, and Tustin).

On August 3, 2010, the City Council directed staff to move forward with this Policy amendment as recommended by the Planning Commission.

ANALYSIS:

Council Policy 500-6 only addresses the banners on light standards which are single-hung or double-hung banners affixed to Southern California Edison light poles. The proposed Council Policy 500-15 is a new policy specifically addressing "Community Event Streetwide Banners" displayed across a public street. The proposed new policy (Attachment 1, Council Policy) would add new requirements for this type of streetwide banners across a public street.

Some important requirements are described below. Please see the attached draft Council Policy 500-16 for more information.

Eligible Applicants

The proposed Council Policy indicates that eligible applicants for special event banners shall be organizations or nonprofit providers that are based in or serve Costa Mesa. The eligibility requirements are identical to those identified in Council Policy 500-6 for banners on light poles, and no changes are proposed.

Potential Locations

Staff has identified potential locations that would be suitable for streetwide banners based on the following criteria:

- Proximity to a public building (i.e. City Hall, Donald Duggan Library, Fire Station)
- Street width that could accommodate a maximum 60 to 70 foot wide banner.
- Available right-of-way area for the installation of one pole on each side of the street without conflicting with existing utility cabinets or other structures in the right-of-way.
- Visual compatibility with existing residential and commercial development to minimize sign clutter.

Staff recommends that banners be located as follows:

1. Across Park Avenue near the Donald Duggan Library
2. Across Park Avenue near Fire Station No. 3
3. Across Fair Drive in front of City Hall
4. Across W. 19th Street near the Costa Mesa Senior Center

Please see Attachment 2 for exhibits of these locations.

Banner Content

The proposed policy better defines the limitations on banner content, as follows:

“Community Event Banners may contain content concerning public service announcements from the City, and content which concerns the promotion and announcement of events, celebrations and meetings, of substantial community wide interest, which are open to the general public.

Examples of permissible content include public service announcements from the City such as water conservation or driver safety, promoting and announcing events sponsored by the City, and (if such events meet all other criteria established by this policy) the promotion and announcement of events at City Community Centers, at the Segerstrom Center for the Arts, at the Orange County Fair and Event Center, and at Orange Coast College and other educational institutions (such as high schools).

Community Event Banners shall not contain any political content, religious content, offensive content, or controversial content, in order to minimize chances of abuse, the appearance of favoritism, and the risk of imposing upon a captive audience; to promote the long term success of the policy both in terms of effectively conveying information and the prospect of raising revenue; and to maintain a policy consistent with lawful federal and state constitutional exclusions of specified content from City speech and/or nonpublic forums.”

Advertising/Sponsorship

Displaying any advertising other than the sponsor's name and logo is not permitted. Advertising specific products is not permitted.

The proposed policy indicates that: “The sponsor’s name and logo may not exceed more than 5 percent of the face of the banner for streetwide banners, unless approved by the Development Services Director who may allow minor deviations up to an additional 1 percent of the banner sign area for multiple sponsorships or other reasons deemed appropriate.”

Time Period

Banners may be posted for a maximum of 30 consecutive calendar days. The Development Services Director may approve additional display time not to exceed an additional 30 days provided that there are no conflicts with pending banner requests from other organizations.

Specifications for Street Wide Banners

The proposed policy defers to a separate agreement for exact specifications with regard to material, hardware, etc. The “Community Event Streetwide Banner Agreement” will be prepared by the Planning and Engineering Divisions.

FISCAL IMPACT:

The cost of street wide banners is estimated as follows:

- Construction/Installation of banner pole on each side of the street:
Approximately \$20,000 for two poles (one on each side of the street) fully installed.
- Vinyl Street Banner: \$2000-\$5000 (varies depending on size, color, artwork, etc.)

Council may wish to consider budgeting the cost of the construction/installation of banner poles at select locations. The cost of the installation and production of a vinyl banner will be borne by the Costa Mesa based organization or business.

Any fees charged to a private party, pursuant to the proposed policy, shall be in accordance with a fee schedule adopted by the City Council.

LEGAL REVIEW:

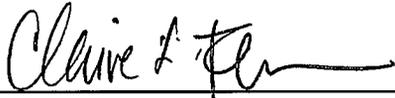
The City Attorney’s office has approved the attached Council Policy as to form.

ALTERNATIVES:

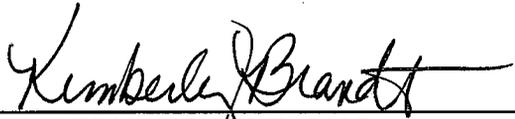
1. Approve Council Policy and provide direction to staff for preparation of a separate "Community Event Streetwide Banner User Agreement." The policy will be implemented once funding and installation of the banner poles at select locations are completed.
2. Receive and File. Existing Council Policy will continue to be limited to banners on street poles.

CONCLUSION:

Council Policy 500-16 is a new policy that will create new regulations allowing streetwide banners to be displayed across a public street.



CLAIRE FLYNN, AICP
Planning Administrator



KIMBERLY BRANDT, AICP
Development Services Director



KIMBERLY HALL BARLOW
City Attorney



PETER NAGHAVI
Public Services Director

ATTACHMENT:

1. Policy 500-16
2. Banner Location Exhibits

DISTRIBUTION:

City Manager
Asst. City Manager
City Attorney
Assistant Development Svs. Director
Public Services Director
Transportation Svs. Manager
City Clerk (2)
Staff (4)
File (2)

File: 020111StreetBanners	Date: 011911	Time: 11:45 a.m.
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CITY OF COSTA MESA, CALIFORNIA

DRAFT COUNCIL POLICY

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BACKGROUND

This policy provides guidelines, terms and conditions for the display, by either the City or private groups, of Community Event Streetwide Banners at select locations in the City of Costa Mesa. Because of numerous benefits, it is in the interest of the City to allow through this policy both public service announcements, as well as the promotion and announcement of civic and community oriented events, celebrations, and meetings.

The City has an overriding interest and expectation in deciding what is "spoken" on behalf of the City by any Community Event Streetwide Banners permitted through this policy. The purpose of this policy is not to create a forum for public discussion.

PURPOSE

The purpose of this policy is to disseminate information from the City, about the City and about community events, to its citizens.

The display of certain Community Event Streetwide Banners has been determined by the City to provide substantial benefits to the City and its citizens through the ability of the City to inform its citizens of public service announcements, as well as civic and community events, celebrations and meetings; through the contribution of funds and tangible items for City programs and activities; and through providing volunteers to assist in City programs and activities.

Community Event Streetwide Banners will be displayed at the locations allowed by this policy, and pursuant to specifications contained further in this policy with regard to size, material, and other details pertaining to other physical aspects of a permissible banner, with locations, length of time for display and other such specifications concerning physical aspects of a permissible banner subject to change by the written decision of the City Manager or his/her designee and effective thirty (30) days after publication by the City.

ELIGIBLE ORGANIZATIONS OR BUSINESSES

The following criteria shall apply to all organizations requesting City Council approval to install street banners. The requesting organization or business shall be based in or serve Costa Mesa. In the case of a charitable organization, they must possess proof of "non-profit status" from the State of California and local government agencies.

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GENERAL REQUIREMENTS

1. Installation Requests

Each request to install Community Event Streetwide Banners shall be submitted at least thirty (30) days in advance of the proposed installation date and shall include at minimum:

- A. Date, time, location(s) and nature of special event or dates of holiday to be promoted.
- B. Benefit of the banner to the general public.
- C. Approved Streetwide Banner location on City poles (see #4 below)
- D. Specific installation and removal dates.
- E. Delineation of banner content, size, material and colors. (More information related to banner size and allowable content is provided in the following pages of this Council policy.)
- F. Application Fee - Refer to the City of Costa Mesa's current User Fees and Charges manual, adopted by the City Council.
- G. Community Event Streetwide Banner Agreement. A separate agreement for the exact specifications with regard to material, hardware, size, installation requirements, encroachment permit (as applicable), etc. is prepared by the Planning and Engineering Divisions.

Installing a banner will require temporary lane closures and other logistical coordination with City staff. The Community Event Streetwide Banner Agreement provides information regarding an appropriate plan to be in place on when and how an organization can install banners. Applicant shall refer to this agreement for more detailed requirements.

2. Number of Banners

One streetwide banner per location, as indicated in #4 below.

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3. Installation Period

Banners may be posted for a maximum of 30 consecutive calendar days. The Development Services Director may approve additional display time not to exceed an additional 30 days provided that there are no conflicts with pending banner requests from other organizations or the City's desired usage. Specific dates and times for installation and removal are subject to change by the City in order to minimize impacts to the public i.e, motorists, businesses, and/or public construction projects.

4. Banner Locations

Following are approved locations for streetwide banners on City-installed banner poles:

1. Across Park Avenue near the Donald Duggan Library
2. Across Park Avenue near Fire Station No. 3
3. Across Fair Drive in front of City Hall
4. Across W. 19th Street near the Costa Mesa Senior Center

Other locations may be acceptable based on review by Public Services Department and as deemed appropriate by the City Council.

ALLOWED CONTENT

Community Event Streetwide Banners may contain content concerning public service announcements from the City, and content which concerns the promotion and announcement of events, celebrations and meetings, of substantial community wide interest, which are open to the general public.

Examples of permissible content include public service announcements from the City such as water conservation or driver safety, promoting and announcing events sponsored by the City, and (if such events meet all other criteria established by this policy) the promotion and announcement of events at City Community Centers, at the Segerstrom Center for the Arts, at the Orange County Fair and Event Center, and at Orange Coast College and other educational institutions (such as high schools).

Displaying any advertising other than the sponsor's name and logo is not permitted. Advertising specific products is not permitted. The sponsor's name and logo may not exceed more than 5 percent of the face of the banner for streetwide banners, unless approved by the Development Services Director who may allow minor deviations up to an additional 1 percent of the banner sign area for multiple sponsorships or other reasons as deemed appropriate.

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DISALLOWED CONTENT

Community Event Streetwide Banners shall not contain any political content, religious content, offensive content, or controversial content, in order to minimize chances of abuse, the appearance of favoritism, and the risk of imposing upon a captive audience; to promote the long term success of the policy both in terms of effectively conveying information and the prospect of raising revenue; and to maintain a policy consistent with lawful federal and state constitutional exclusions of specified content from City speech and/or nonpublic forums.

The Director of Development Services or his/her designee shall determine, based upon the criteria set forth in this policy, whether a proposed Community Event Streetwide Banner is in violation of the content restrictions set forth herein. Any organization, person or entity, denied placement of a Community Event Streetwide Banner due to disallowed content, shall be provided a written articulation by the Director of Development Services or his/her designee of the disallowed content as understood by this policy.

APPEAL OF DETERMINATION OF DISALLOWED CONTENT

Any organization, person or entity, denied placement of a Community Event Streetwide Banner due to disallowed content, will have fourteen (14) days, from the receipt of the written determination, to appeal the denial to the City Manager or his/her designee. An appeal will consist of a written explanation of why the denied content is consistent with the guidelines of this policy, and an appeal will request a hearing before the City Manager or his/her designee. An appeal hearing will be provided within five (5) days upon receipt of such appeal by the City.

All decisions by the City Manager or his/her designee concerning appeals shall be final. Further appeal of the final decision is to be made to the courts pursuant to California Code Civil Procedure section 1094.8.

LIABILITY

The City will not be responsible for damage to any non-City banner used pursuant to the within policy, including any damage which occurs during installation or removal. Further, the City will not be responsible for the disappearance of any non-City banners, or damage to any non-City banners during use, from any cause, including but not limited to wind, weather, theft, or vandalism; non-City banners are the property of the sponsoring organization.

The City reserves the right to immediately remove Community Event Streetwide Banners if any hazard is deemed present which requires the removal of a Community Event Streetwide

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Banner, including, but not limited to, a hazard caused by inclement weather or accidental damage.

Costs that may be incurred by the removal of banners deemed to be a hazard shall be charged to the organization, person or entity which/who requested the display of said Community Event Streetwide Banner.

The sponsoring organization, person or entity of a Community Event Streetwide Banner agrees to defend, indemnify, and hold free and harmless the City, at the sponsoring organization, person or entity's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, arising out of, but not limited to, the installation, display and removal of the sponsoring organization's Community Event Streetwide Banner, with the exception of negligent or intentional acts by the City or its employees which give rise to claims, actions, suits or other legal proceedings brought against the City.

CITY PRIORITY FOR PLACEMENT

The display of a Community Event Streetwide Banner concerning a City public service announcement or City-sponsored event will preempt all other requests from private groups for the display of a Community Event Streetwide Banner, including scheduled displays agreed to by the City.

The City will make any and all reasonable efforts to accommodate a private group whose scheduled display is preempted by a City banner.

In the event that there is a scheduling conflict amongst permissible requests from private groups for a permit to display a Community Event Streetwide Banner, the requests shall be granted in the order in which the requests were received, with such priority possible only for a period not to exceed thirty (30) days from the date of the request until the date the Community Event Streetwide Banner is posted.

TEMPORARY DISPLAY; NO EASEMENT

Any organization, person or entity permitted by the City to temporarily display a Community Event Streetwide Banner under this policy expressly understands that the City does not purport, by such permission for display, to grant any right, claim, title or easement in or upon any public street, public property, or in or upon any other property within the City.

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NONTRANSFERABLE

Any grant by the City of a request by an organization, person or entity for the display of a Community Event Streetwide Banner, constitutes a nontransferable grant expressly provided only for the specific content and details provided in said request and approved by the City.

FEES AND COSTS

Any fees charged to a private party, pursuant to this policy, shall be in accordance with a fee schedule adopted by the City Council.

AGREEMENT BY APPLICANTS TO POLICY

All applicants who submit Community Event Streetwide Banner requests to the City shall also submit a signed acknowledgment by an authorized representative of the organization, person or entity submitting said application, that the City of Costa Mesa Community Event Streetwide Banner Policy has been read, and all its terms and conditions are agreed to by the organization, person or entity, specifically including, but not limited to, the section on Liability.

ADHERENCE BY APPLICANTS TO POLICY

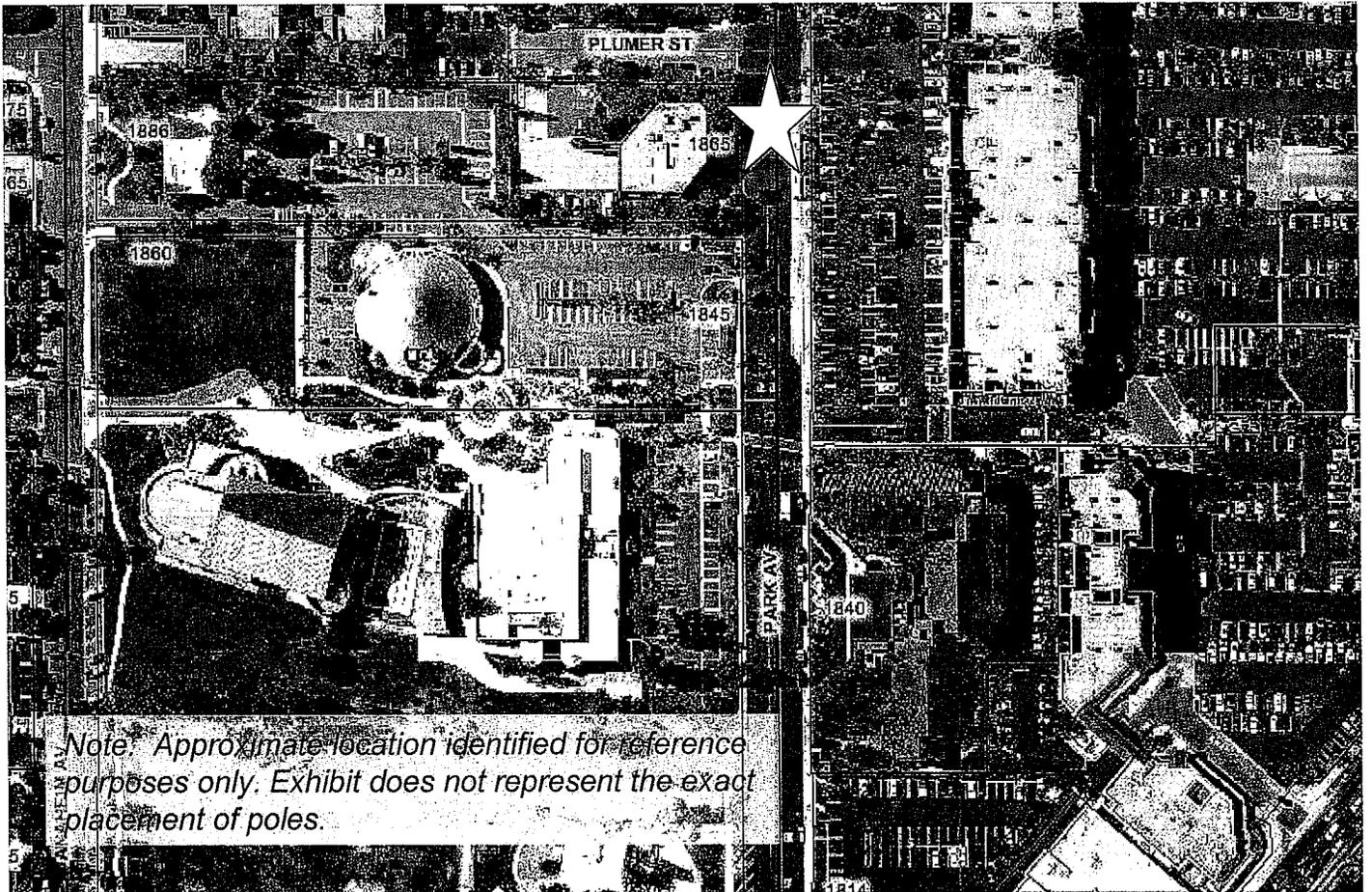
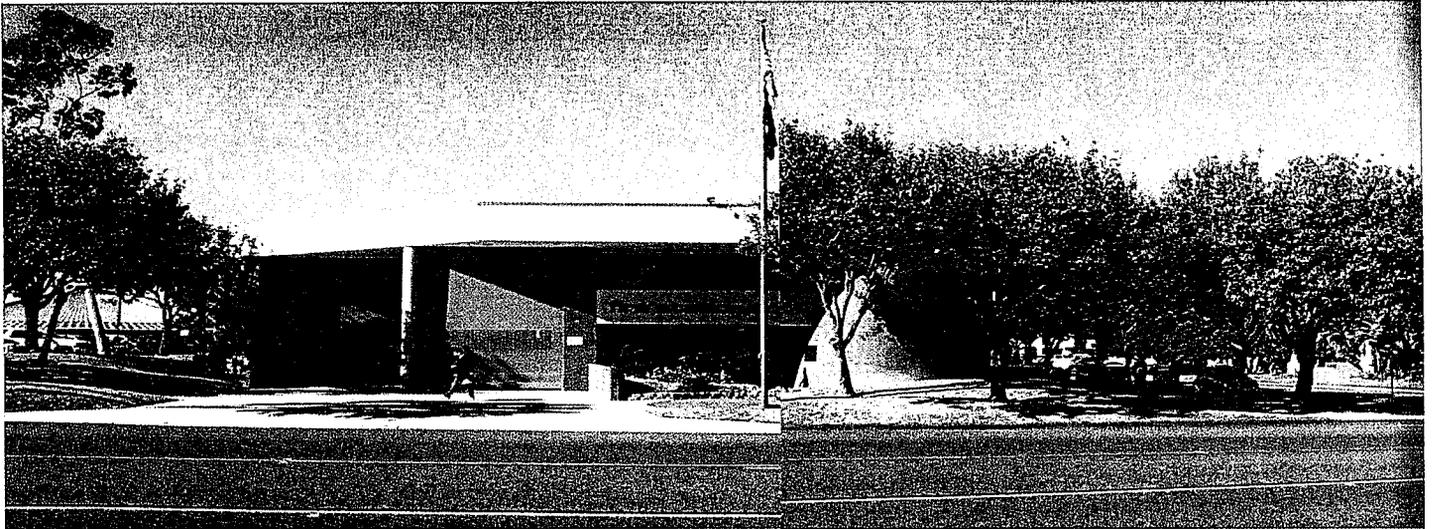
In the event the organization, person or entity permitted by the City to display a Community Event Streetwide Banner under this policy fails to comply with any or all of the requirements and conditions, as set forth in this policy and any related application, guidelines, terms or rules consistent with, or derived from, this policy, the permission by the City to display said Community Event Streetwide Banner may be revoked at the City Manager's (or his/her designee's) discretion, and the City may remove the noncompliant Community Event Streetwide Banner, with any and all permitting fees paid to the City under this policy nonrefundable as a consequence of non-compliance, and the costs of removal incurred by City of any noncompliant Community Event Streetwide Banner shall be charged to the organization, person or entity whose request to the City under this policy resulted in the display of the noncompliant Community Event Streetwide Banner.

Potential Banner Location #1:
Along Park Avenue near Donald Duggan Library

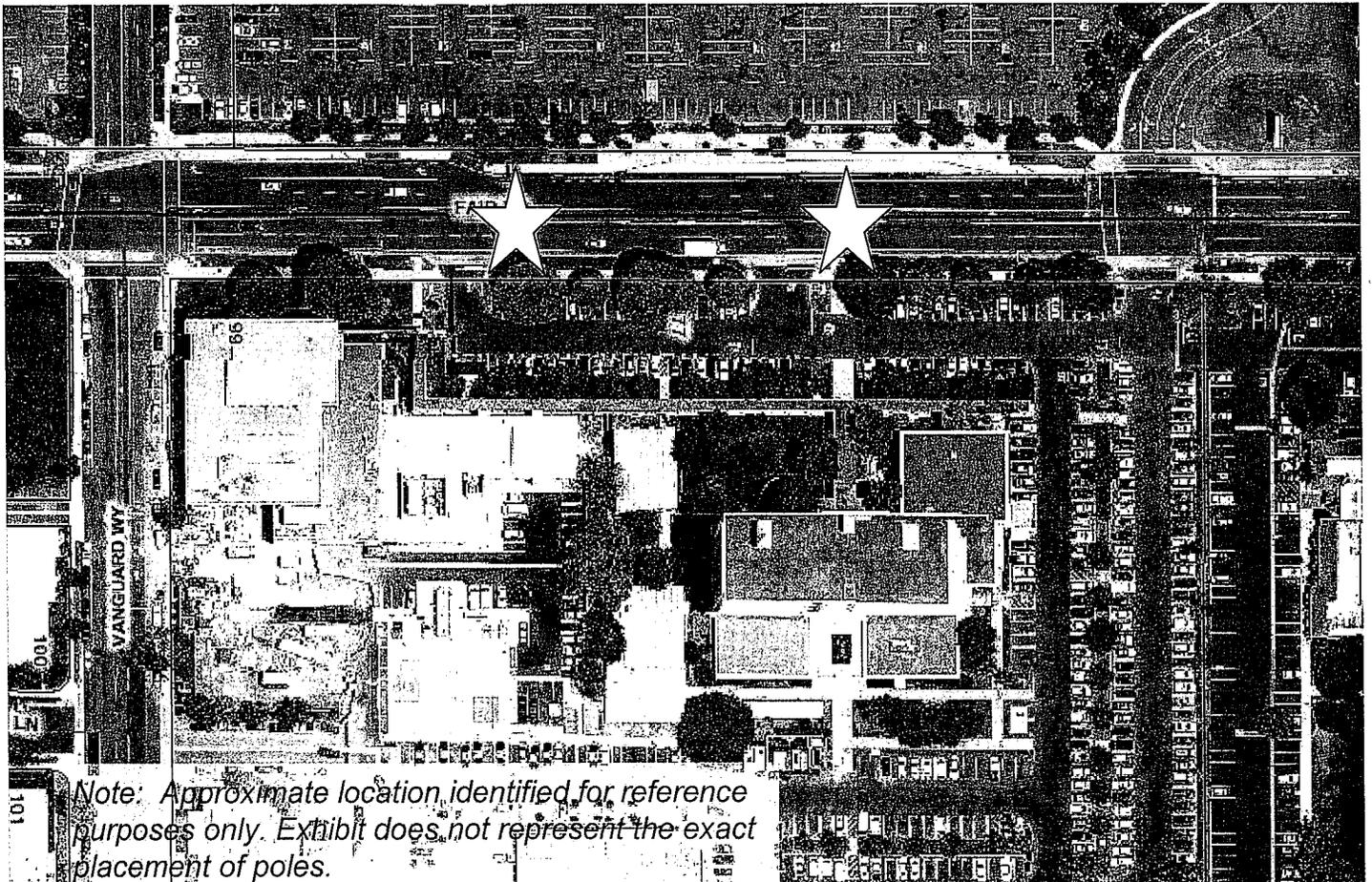


Note: Approximate location identified for reference purposes only. Exhibit does not represent the exact placement of poles.

**Potential Banner Location #2:
Across Park Avenue near Fire Station No.3**



**Potential Banner Location #3:
Across Fair Drive, In front of City Hall**



Note: Approximate location, identified for reference purposes only. Exhibit does not represent the exact placement of poles.

Potential Banner Location #4:
Across W. 19th Street, Near Senior Center

