BILLBOARDS: ANOTHER VIEW

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The article on Billboard Planning and Zoning which appeared in the January issue of I.D. has inspired considerable comment both pro and con. In order to give both sides of the picture—serving as a forum for intelligent discussion—I.D. is publishing here a rebuttal to the earlier report . . .

By Eldridge Lovelace

THe article entitled, “Billboard Planning and Zoning” by Paul van Tassel Hedden that appeared in the January 1959 issue of “Industrial Development” magazine appears to represent, in a large degree, billboard planning and zoning principles as they are favored by the billboard interests. The principles recommended by Mr. Hedden depart quite far from current practices in the regulation and control of outdoor advertising as recommended by other professional city planners. Those who read the first article should have an opportunity to learn that there are other points of view on billboard planning and zoning.

One of the other points of view is best presented in seven principles which may be summarized as follows:

1. Outdoor Advertising is Ugly and Makes Our Nation and Its Communities an Aesthetic Mess

Beauty, as the poet said, is in the eye of the beholder and people differ over matters of aesthetics. There are, however, standards of good taste that are generally accepted by the population as a whole—and more heartily endorsed by persons with training and experience in matters of appearance and aesthetics. Most people believe outdoor advertising to be ugly—see the Trendex Poll of Public Opinion and other similar polls which reveal an overwhelming public distaste for outdoor advertising.

This principle may be more effectively demonstrated, however, by a few comparisons. Compare an area without outdoor advertising such as Hawaii or Bermuda, or one of our more carefully developed suburban areas, with an urban or rural scene where there is outdoor advertising. Compare a trip over the Merritt Parkway, the Blue Ridge Parkway, or one of the turnpikes where outdoor advertising is completely eliminated, with a comparable drive over such a route as U. S. 1 between Washington and New York, U. S. 66 southwest of St. Louis or U. S. 77 (a new route) just south of Oklahoma City. Which community or which highway is the more attractive—the one with, or the one without outdoor advertising? There can be only one answer; outdoor advertising makes an area ugly.

There is universal agreement that the community without outdoor advertising and the highways without outdoor advertising are much more pleasant and much more attractive than the highways or the communities that permit it. The adjectives, “attractive” and “pleasant” may seem to be weak or meaningless. This is not so, however. The better appearing community is always the more valuable community; higher property values go hand in hand with a pleasing appearance and an attractive environment.

A further demonstration of this first principle is found in the modern planned shopping center. Billboards are excluded from these centers because the owners and operators of such centers don’t want them; they detract from the planned center’s value. One of the earliest shopping centers—the Country Club Plaza in Kansas City, Missouri, has followed a consistent policy of placing severe restrictions on outdoor advertising. Billboards, for example, are not allowed. This is a typical example of the practices proved by experience in successful commercial centers.

Deed restrictions for the control of the use of property within planned industrial districts generally restricts the use of outdoor advertising. The United States Chamber of Commerce’s publication “Organized Industrial Districts” says, “The effect of uncontrolled use of...
billboards and other advertisements on an otherwise attractive district is obvious.” This publication quotes with approval the following restrictions for the industrial district of Wichita:

“...no billboards or advertising signs other than those identifying the name, business and products of the person or firm occupying the premises shall be permitted, except that a sign not exceeding ten (10) feet by twenty (20) feet in size offering the premises for sale or lease may be permitted.”

The conclusion is unescapable no matter how the problem is approached: presence of outdoor advertising makes ugly the area in which it is located.

2. Control and Regulation of Outdoor Advertising Based on Aesthetic Considerations Alone is Logical, Appropriate and has been Approved by the Courts

In recent years our courts have taken a much broader view of the police power. Regulations based upon aesthetic considerations alone are being approved. The United States Supreme Court in the case of Berman v. Parker\(^2\) stated as follows:

“The concept of the public welfare is broad and inclusive. The values it represents, as well as its physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled. If those who govern the District of Columbia decide that the Nation’s Capital should be beautiful as well as sanitary, there is nothing in the Fifth Amendment that stands in the way.”

The Supreme Court of Florida in the case of International Co. v. The City of Miami Beach\(^3\) upheld regulations of the City of Miami Beach that control outdoor advertising, stating as follows:

“We have upheld zoning generally in the Miami Beach area, where the principal consideration was aesthetics on the showing that because of the very nature of the place, restrictions that had no relevancy to health, safety and morals, could be imposed because the general welfare of the community depended upon preserving its beauty.”

Probably the most significant case in the control and regulation of outdoor advertising is the Massachusetts case of 1935.\(^4\) In this case the court quoted the Massachusetts case cited above investigated in great detail the relationship between outdoor advertising and safety on the highways.

The master on this case made the following finding:

“Billboards are designed to compel attention. The advertising matter displayed upon them in words, pictures or devices, is conspicuous, obtrusive and ostentatious, being designed to intrude forcefully and persistently upon the observation and attention of all who come within the range of clear normal vision.”

The court went on to say:

“Advertising devices on private land manifestly are designed to attract the attention of motorists. The union of the executive head of that department that billboards have a distinctive effect upon the drivers of automobiles and that they constitute traffic hazards except in bus-

ness sections is entitled to weight.”

The Massachusetts case was decided in 1935. Traffic is far heavier today; automotive travel is at much higher speeds and requires from the driver a much greater degree of concentration. Obviously, any distraction of a driver today is far more dangerous than in 1935.

Several surveys have been made by various highway departments in an endeavor to find a statistical correlation between traffic accidents and billboards. Studies made in Minnesota and Iowa found such a correlation. A Michigan study did not. However, this is a relationship not well suited to conclusive statistical analysis. Outdoor advertising is most common where traffic is heaviest. It is in these locations that there are the greatest number of accidents. It is almost impossible to isolate the exact causes of the accidents or to blame an individual accident upon a billboard alone. It is quite obvious, however, that a driver is not concentrating on the highway while he is reading a billboard. This inattention is dangerous. (If the occupant of the car is driving safely and does not see the billboard then much of the reason for the billboard is removed because the drivers are more than one-half of the total occupants of the automobiles.)

Every driver is familiar with the severe problems created by the multiplicity of signs near intersections. It is very difficult to single out the highway direction signs from the advertising signs in a strange city by day—and virtually impossible at night. Stop-and-go lights are difficult to find because of all the neon lights in front of them and behind them. There can be no argument over the conclusion that lack of attention to basic traffic control signs is very dangerous.

A few of the modern express highways have been found to induce a certain dangerous hypnosis on the driver. This is caused by usually montonous cross sections and alignment. The billboard interests have eagerly pounced upon this situation and have widely touted the billboard as an effective means of overcoming this monotony. (There has been no evidence, however, of their locating billboards at sites chosen just to eliminate this hypnotic condition.) However, there are many other means—and better means—including landscaping of the highways, painting bridges in colors, better highway design, etc. to eliminate this hyp-
notic effect. It can be overcome without use of the billboard.

4. Outdoor Advertising Need Not be Allowed in all Business and Industrial Districts

Mr. Hedden in his article spent much time emphasizing one of the major sophistries of the advertising interests. Most simply expressed, it is to the effect that outdoor advertising is a typical, legitimate “public-spirited” business and, as such, by right, should be permitted in all commercial and industrial districts under our zoning ordinances.

The false assumption on which this sophistry is based is that outdoor advertising is a typical business. This was effectively exploded in the 1935 Massachusetts billboard case:

“The classification of billboards and other outdoor devices for advertising, when carried on as a business, to be treated separately and apart from other business plainly is warranted.”

Any business is “legitimate” so long as the conduct of the business does not involve an illegal activity on the part of its proprietor. This does not mean that all businesses have to be allowed in a commercial area. A junk or salvage yard is a “legitimate business”; it is usually relegated to a heavy industrial district. Nor is it at all necessary for any community to provide for all possible human uses of the land within its boundaries by its zoning ordinance. A community may rightfully exclude from its borders uses that would be entirely inappropriate to the community, dangerous to its inhabitants, or uses that would place it at a disadvantage in economic competition with other communities. Certainly, if a community deemed that outdoor advertising adversely affected its entire character, appearance and value there is nothing in the law that would stop the community from excluding it from its boundaries.

Virtually all outdoor advertising has been completely excluded from the Hawaiian Islands. The results of this practice are good evidence of the practicability as well as the desirability of such an exclusion.

5. There is no Compelling Economic Reason for Outdoor Advertising

The major purpose of outdoor advertising is to persuade people to do something or to buy something that results in economic benefit to the organization purchasing the advertising. It is quite doubtful that this basic purpose is accomplished to an extent commensurate to the cost of the advertising. An article by Carl Goldschmidt in a recent issue of the "Journal of the American Institute of Planners" describes a survey made by the Virginia Department of Highways:

“At the request of three garden clubs in Albemarle County (Charlottesville), interview stations were set up at five different locations on U. S. 29 and U. S. 250 outside Charlottesville. Motorists were stopped and interviewed during five days of one week in August and were asked their opinions regarding billboards along highways. The sample of some 6000 was quite evenly divided among residents of Charlottesville and Albemarle County, the rest of Virginia, and elsewhere.

"Only 16 percent replied affirmatively to the question of whether billboards along the highway influence their purchasing, and only half of these were able to say in what ways they thought they were influenced. Furthermore, of the local people only 11 percent reported that they were influenced, of the rest-of-state people 17 percent, of the out-of-state 19 percent. Since the majority of billboard advertising, even of products available nationally, is done by merchants in their local areas, the survey analysis concluded that precisely those people the advertiser most wished to reach, those who do most of their spending locally, were apparently least influenced by it. In spite of the low total number of people doing some purchasing consequent to billboard stimulus, this distribution is unexpected and significant. As might be expected from this, those influenced by billboards responded more often to motel signs and other signs about traveling accommodations than to any other determinable stimulus. Even so, these constituted only 5 percent of the sample.

General conclusions from this survey might be that while most drivers do not like billboards, most of them don't consciously react as the advertisers wish. Hence, even though perhaps they are not objectionable, on the basis of this one might say that they serve little purpose."

The advertising interests themselves are unable to produce facts demonstrating any substantial economic value for outdoor advertising (see the "Hearings before Subcommittee, etc., 85th Congress on S. 963" and particularly pages 136 to 141).

A few of the major corporations, such as Union Oil of California, have discarded billboard advertising. Other companies, no doubt, will follow as they find that money paid for such advertising is of doubtful value. This is particularly evident when it is realized that there is a part of the population to whom the billboard is so distasteful as to be inclined not to buy the product advertised.

The billboard industry frequently cites figures such as the number of people they employ and the fact that a quarter of a million people receive incomes from the use of their property for outdoor advertising. Exactly the same case could have been made for the buggy manufacturer and the very flourishing saddle industry we had before the advent of the automobile. Complete disappearance of this industry, which is not possible or probable for many years, and which would take place gradually in any event, is not likely to have any noticeable effect on the nation's economy.

Nor is it at all reasonable to say that just because one business might be
eliminated all legitimate businesses are threatened. The outdoor advertising business is obviously different from, say, the shoe business or the automobile business, from a bakery, a laundry or any other business that contributes to filling a basic human need. Advertising may be needed for mass distribution of products. Other media are available, however. To say that stringent regulation or even elimination of outdoor advertising is a threat to all business is not just untrue, it is outright silly!

6. The Modern Zoning Ordinance Should Include Stringent Controls of Outdoor Advertising

Based upon its adverse effect upon community appearance and traffic safety the modern zoning ordinance includes stringent control of outdoor advertising. Generally, this control should be as follows:

(a) Except for bulletin boards used in conjunction with churches and institutions and temporary signs for the sale or lease of property, all outdoor advertising should be excluded from all residential districts. The billboard industry generally agrees to this; however, they do not agree to the corollary to it which is that existing outdoor advertising within the residential areas should be removed within a period two to five years.6

(b) Outdoor advertising should not be permitted to locate promiscuously along highways in rural areas. For the convenience of the traveling public, outdoor advertising is needed to point out the presence and location of garages, filling stations, hotels, motels and restaurants. Preferably such signs should be grouped in a special area adjacent to a highway turnout where the car can be pulled off the highway and the signs examined at leisure. (The combination of such an arrangement with direct-line telephones would be far more effective than the customary hit-or-miss arrangements.) Pending such developments, however, outdoor advertising that is restricted to such subjects should be permitted within the commercially zoned areas along rural highways, together with signs advertising products or services offered on the premises. The major portion of rural highways, however—at least 90 to 95 percent of their mileage—should be protected against all outdoor advertising.

(c) Within the urban commercial districts serving the residential areas with such uses as groceries, drug stores, barber shops and the like, outdoor advertising should be restricted in content to that dealing with the services or products sold on the premises. With very limited exceptions advertising in such districts should be attached to buildings; and should not extend above or beyond the building itself. Also, there should be a limitation as to the total square footage of advertising material.

(d) In most of our cities at least for some time to come, it is probable that virtually all types of outdoor advertising will have to be allowed within the commercial areas along the highways and commercial areas in and adjacent to the central business district. This is because there is already so much material of this type installed in such areas. Here again, control over the total square footage of signs and keeping signs a reasonable distance from residential zones will be beneficial not only to the general public but to the users of outdoor advertising as well. Today, in so many of our strip-type commercial areas there is such a multiplicity of advertising material that the traveler does not notice—and sometimes cannot even find—any one individual sign.

(e) It is also probable that for some time to come outdoor advertising should be allowed in our older and more mixed-up industrial districts in cities. In our newer industrial areas, however, and in those of a better character, advertising should be limited to identification of the enterprises occupying the premises. There should be stringent control in regard to setback and total area.

The above are, admittedly, compromise regulations. Much greater control is possible and probably desirable. However, this is a matter in which progress must necessarily be made step-by-step. The combination of public distaste for the ugliness of our cities and the progressive point of view of leadership in major corporations in response to this public reaction is likely to bring about a gradual elimination of the major portion of outdoor advertising over the next two to three decades. We will not have to depend upon public regulation alone.


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It is necessary to agree with the last statement in Mr. Hadden's article which was as follows:

"Perhaps it would be a good criterion to judge a community attitude toward legitimate business by checking the reasonableness of its controls on outdoor advertising."

Industry is becoming more and more aware of the necessity for locating its operations in communities in which its employees may find a good environment in which to live and rear children. The appearance of any community is a major contributor to such an environment. That community will be best for industry which is aware of the need to develop and maintain good living conditions. The extent to which community leaders are aware of this problem is well indicated by the stringency of the controls they impose on outdoor advertising. The more stringent this control the more aware they are of the need to protect and enhance community amenities.

Thus an industry looking for a new site would do well to look into the stringency of the community's outdoor advertising regulations. Stringent regulations not only indicate a concern for living conditions but an ability, on the part of municipal government, to protect the majority interest and not to buckle under to a vociferous and self-seeking minority. Where a city has compromised its position in regard to outdoor advertising it will compromise its position similarly in response to outrages from other minorities. In such a community there will be constant difficulties for commerce and industry. Stringent controls indicate a desire to create a good environment for all business and industry.

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7 See Grant et al. v. Mayor and City Council of Baltimore et al., Court of Appeals of Maryland, Feb. 14, 1957, 129 A. 2d 363.