DEPARTMENT: Planning  BY: Tony Lashbrook  PHONE: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes__ No X)  
Deny appeal and uphold Planning Director’s determination that a neon sign is a prohibited use in the Mariposa Town Planning Area’s Historic Design Review Overlay District.

Recommended action is based on:

- specific language in County Code, establishing a definition of and standards for signs,
- history of enforcement of these code provisions, and
- legal opinion from County Counsel reinforcing the Planning Director’s determination

Recommended action would require that neon open sign be removed within 30 days (abatement period).

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES:
1. Continue matter for discussion;
2. Deny appeal and uphold Planning Director’s determination.
   Grant appellant an extension to the abatement period to provide adequate opportunity for sign replacement.

NEGATIVE ACTION (to the recommended action) would uphold the appeal and overturn the Planning Director’s determination. Negative action is not consistent with the Zoning Ordinance.

COSTS:  (X) Not Applicable
A. Budgeted current FY $________
B. Total anticipated costs $________
C. Required additional funding $________
D. Internal transfers $________

SOURCE:  ( ) 4/5ths Vote Required
A. Unanticipated revenues $________
B. Reserve for contingencies $________
C. Source description: Balance in Reserve for Contingencies, if approved: $________

SPECIAL INSTRUCTIONS:  List the attachments and number the pages consecutively:
1. Memorandum to the Board
2. Legal Opinion from County Counsel
3. Appellant’s Notice of Appeal
4. Planning Director’s Written Determination
5. Location Map

CLERK’S USE ONLY:
Res. No.: 93-632  Ord. No.  
Vote - Ayes: 7
Nees: 0
Absent: 0
Approved: 7
Denied: 0
Minute Order Attached: ( ) Yes ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date:  
ATTEST: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California  
By: Deputy

ADMINISTRATIVE OFFICER’S RECOMMENDATION:
This item on agenda as:  

Recommended  Not Recommended
For Policy Determination  Submitted with Comment
Returned for Further Action

Comment:  

A.O. Initials:  

Action Form Revised 5/92
TO: TONY LASHBROOK, PLANNING DIRECTOR  
FROM: MARGIE WILLIAMS, CLERK OF THE BOARD  
SUBJECT: APPEAL HEARING - SUGAR PINE RESTAURANT/HARRIS

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on December 21, 1993

ACTION AND VOTE:

11:36 a.m. Tony Lashbrook, Planning Director;  
Continued PUBLIC HEARING, Appeal of Planning Director's  
Determination that a Neon Sign is a Prohibited Use in the  
Mariposa Town Planning Area's Historic Design Review Overlay  
District; Harris (Sugar Pine Restaurant)/Appellant  
BOARD ACTION: Tony provided staff report and responded to  
questions from the Board. Public input was provided by: Jean  
Harris/appellant and Carmen Zellhoefer. Board commenced with  
deliberations. (M)Parker, (S)Taber, Res. 93-632 adopted denying  
the appeal, and the abatement period was extended for ninety days  
from this date; and direction was given to staff to prepare an  
ordinance amendment for processing to allow for specific  
signs/Ayes: Balmain, Erickson, Parker, Taber; Excused: Baggett.  
Hearing was closed.

cc: File
December 14, 1993

MEMORANDUM

TO: Board of Supervisors
FROM: Tony Lashbrook, Planning Director
RE: Appeal of Planning Director's Determination that a Neon Open Sign is a Prohibited Use in the Mariposa TPA's Historic Design Review Overlay District; APN 13-181-007 (Sugar Pine Restaurant); Jean Harris, Appellant

BACKGROUND

On October 13, 1993, I rendered a written zoning violation determination regarding a recently installed neon open sign at the Sugar Pine Restaurant (Attachment 4). My action was taken in accordance with my responsibility as zoning enforcement officer (Chapter 17.144, County Code).

On November 5, 1993, my determination was appealed to the Board of Supervisors. The appellant's basis for appeal, as stated in the Notice of Appeal Form (Attachment 3), is that I misinterpreted Section 17.336.070 of the Zoning Ordinance. Ms. Harris feels that an open sign is an on-site directional sign and therefore not subject to the internally lit prohibition.

DISCUSSION

The determination that a neon sign is not allowed within the Historic District established by the Mariposa TPA Specific Plan and Zoning Ordinance is based upon the following:

1. Section 17.336.070(4) of Mariposa County Code specifically prohibits the installation of internally lit signs.

2. The neon open sign installed by Ms. Harris is an internally lit sign installed after the effective date of Section 17.336.070(4).
3. The prohibition relative to internally lit signs within the Historic District applies to advertising displays and information signs.

County Counsel has reviewed the applicable statutes and concurs with staff's determination.

RECOMMENDATION

Deny appeal and uphold determination that a neon sign is a prohibited use in the Mariposa Town Planning Area's Historic Design Review Overlay District.

Recommendation is based upon the following:

- the specificity of language in code sections defining and regulating signs in the Historic Design Review Overlay District,

- the history of enforcement of these code sections, and

- County Counsel's legal opinion, which confirms the zoning violation determination.
To: Tony Lashbrook, Planning Director

From: Jeffrey G. Green, County Counsel

Re: Harris Appeal

Dear Tony:

Thank you for your memorandum of November 16, 1993 regarding the above matter. I have reviewed your memo together with attachments and have additionally reviewed Mariposa County Code chapters 17.67, 17.148, and 17.336. After a careful review of those ordinances which interrelate relative to both definition of signs and regulation thereof, it is my opinion that the actions which you have outlined on page 3 of your November 16 memo relative to the Board's ability to resolve this appeal is accurate. Given the Code sections as drafted and the history of enforcement which has been approved by the Board of Supervisors, I do not believe there is any room for argument regarding the definition and regulation sections of the ordinances

Should you require any additional information regarding these matters, please feel free to contact me.

Very truly yours,

Jeffrey G. Green
County Counsel

sa

ATTACHMENT 2
MARIPOSA COUNTY
NOTICE OF APPEAL

APPELLANT/CONTACT PERSON

NAME

MAILING ADDRESS

DAY TELEPHONE NUMBER

☐ Check this box if the appeal form is being filed by additional appellants. Attach list with name, address, and signatures of appellants. You may designate two persons on the list to receive copies of all correspondence and staff reports related to the appeal. The list must contain a statement which states the person signing the list has reviewed the Notice of Appeal form.

☐ Check this box if appellant is also the application or permit applicant for the finding or decision being appealed.

APPEAL BODY

Decision, finding, or determination is being appealed to

☐ BOARD OF SUPERVISORS (Submit appeal form to Clerk of the Board of Supervisors)

☐ PLANNING COMMISSION (Submit appeal form to Planning Commission Secretary)

DECISION BODY

Decision, finding, or determination being appealed was made by

☐ PLANNING COMMISSION

☐ OTHER COUNTY COMMISSION OR BODY

☐ COUNTY DEPARTMENT HEAD OR OFFICIAL

DATE OF DECISION

RECEIVED
NOV - 5 1993
Mariposa County Planning Dept.

Date Received

ATTACHMENT 3
DECISION, FINDING, OR DETERMINATION BEING APPEALED
(Attach copy of decision/findings)

APPLICATION NUMBER OR
TYPE OF PERMIT

OTHER (Specify)

SPECIFIC CONDITIONS, FINDINGS, AND/OR PORTIONS OF DECISION OR
DETERMINATION BEING APPEALED

Alleged Zoning Ordinance, APN 13-181-007
(Year, OPEN Sign in Historic Design

Review District)

STATEMENT OF GROUNDS OF APPEAL

(If additional space is needed, attach additional sheets to Notice of
Appeal form. The grounds of appeal must clearly state those issues or
portions of the finding, decision, or determination being appealed. The
Board of Supervisors or Planning Commission will consider only those issues
which are raised in the appeal form.)

The alleged violation of county ordinance # 17.336.070, I feel is a misinterpretation
of the ordinance. The sign in question - "OPEN" is identical in size (13 1/4" x 32 1/2") to
several others in Mariposa. I do feel this open sign falls under ordinance # 17.336.070,
Section 6, (on site directional sign.)

The definition of "OPEN" according to the dictionary is: Available, to begin

I do not feel the intent of the ordinance was to be unfair to the business in
one area of Mariposa more than others.

☐ Check this box if you request the right to submit additional
reasons for appeal and amendments or supplements to the appeal.
This additional information must be submitted no later than twenty-five (25) calendar days prior to the hearing date of the appeal.

Jean D. Harris
SIGNATURE OF APPELLANT

DATE

ATTACHMENT 4/13/93
October 13, 1993

Jean Harris  
P.O. Box 967  
Mariposa, CA 95338

RE: Alleged Zoning Ordinance Violation, APN 13-181-007  
(Neon OPEN sign in Historic Design Review District)

Dear Ms. Harris,

It has come to the attention of this office that you've recently installed a neon OPEN sign in the window of the Sugar Pine Restaurant. This parcel is located within the Mariposa TPA Historic Design Review District. The County Zoning Ordinance regulates the types of signs which are permitted in this district. The ordinance specifically prohibits internally lit (neon) signs (Sections 17.67 and 17.336.070).

Several similar signs installed in your immediate neighborhood have had to be removed based upon these code sections.

If at all possible, we would like to resolve this matter on an informal basis instead of proceeding with formal violation proceedings. In order to resolve the matter, you must remove the neon open sign within thirty (30) days.

I would be happy to discuss this matter with you at any time prior to the end of the thirty (30) day period. If this office does not hear from you within thirty (30) days after the date you receive this letter and the sign has not been removed, formal violation proceedings must be initiated.

This determination may be appealed to the Planning Commission or the Board of Supervisors. A copy of Appeals Information is enclosed for your information.

Sincerely,

Tony Lashbrook  
Planning Director

enclosure/CRRR

ATTACHMENT 4
LOCATION MAP
APPEAL OF PLANNING DIRECTOR’S DETERMINATION
APPELLANT: JEAN HARRIS
APN: 13-181-007
MARIPOSA TOWN PLANNING AREA