RESOLUTION - ACTION REQUESTED 2012-230

MEETING: May 1, 2012

TO: The Board of Supervisors

FROM: Kris Schenk, Planning Director

RE: Appeal No. 2012-029 - Patel

RECOMMENDATION AND JUSTIFICATION: PUBLIC HEARING to Consider Appeal No. 2012-029, an Appeal of the Planning Director’s Determination Regarding the Denial of Plastic, Internally-Lit Signage Proposed for the Best Western Hotel in Historic Design Review Application No. 2012-019. The same signage had also been denied in Historic Design Review Application No. 2010-001. Appellant: Pramod (Paul) Patel. Project site is APN 013-188-005; located at 4999 Highway 140, Mariposa.

Adopt a resolution denying Appeal No. 2012-029 with findings, upholding the Planning Director’s action.

Justification is provided in the Staff Report to Board of Supervisors from Mariposa Planning.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Applicant, and other business owners, would be encouraged to install plastic, internally-lit signs, in violation of the provisions of the County Code (Historic Design Review Overlay zone sign regulations).

FISCAL IMPACT:

None

ATTACHMENTS:
120501 Staff Report + SCANNED (PDF)
120501 BOS Resolution - Best Western Appeal (PDF)

CAO RECOMMENDATION
Requested Action Recommended
Resolution - Action Requested 2012-230

[Signature]
Rick Benson, County Administrator/Officer
TO: KRIS SCHENK, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board


RES. 12-230

THE BOARD OF SUPERVISORS OF MARIPosa COUNTY, CALIFORNIA

ADOPTED THIS Order on May 1, 2012

ACTION AND VOTE:

1. Planning RES-2012-230
Chair Bibby reviewed the hearing procedures. Karen Peneschi/Assistant Planner presented the staff report, and she advised of a telephone call that was received after the agenda packages were distributed supporting the Director’s decision.
The public portion of the hearing was opened and input was provided by the following:
Jeff Miller asked to speak on behalf of the Historic Sites and Records Preservation Commission. Chair Bibby responded that input would be received during the public portion after the appellant’s presentation.
Appellant’s Presentation:
Paul Patel reviewed his appeal; stating he feels that he is being discriminated against because of his nationality; advised of his attempts to work with Best Western and the Planning Department on the sign, and he
expressed concern with the restriction on an internally lit sign; and he
questioned why there is enforcement for his sign and not others in the Historic
District. Mr. Patel responded to questions from the Board relative to internal
and external lighting for the sign; relative to Best Western’s review and
enforcement.
Persons Speaking in Support of the Appellant:
Ruth Sellers, member of the Historic Sites and Records
Preservation Commission, expressed sympathy with Mr. Patel - she feels the
business people that support the transient occupancy tax should be given
careful consideration; and she noted that there are other signs in town that are
illegal and are being allowed.
Jeff Miller, member of the Historic Sites and Records
Preservation Commission, explained the Commission’s action to approve the
design. He advised that the Commission questioned whether the sign
ordinance is being enforced for everyone and whether it would be changed. It is
felt that decisions need to be made. He responded to questions from the Board
relative to the Commission’s stance on plastic and internally lit signs in the
Historic District Overlay; and relative to the Commission’s understanding of the
existing regulations and their obligation to uphold those regulations.
Steve Dahlem/County Counsel responded to questions from the Board
relative to oath requirements for the members of the Commission and their
duty to uphold the codes and regulations; and clarifying that the existing
Ordinance is law until a new Ordinance is adopted and becomes effective.
Eleanor Keuning, member of the Historic Sites and Records
Preservation Commission, spoke in defense of Mr. Patel, providing input on his
location and traffic. She commented on his renovation of the Super 8 Motel
and noted that their sign is internally lit. Speaking as an individual, she
supports the appeal. She responded to a question from the Board as to
whether the Commission wants plastic signs in the Historic District.
Ruth Sellers stated that Mr. Miller did not speak on her
behalf, and she does not have any record of his authorization to speak on
behalf of the Commission - but she does not downgrade what he said. She is in
sympathy with Mr. Patel. She noted that the Commission is only advisory and
does not make decisions; however, she feels that they lack support in many
areas and that a Supervisor should attend their meetings and that they should
be furnished with a secretary to take their minutes so that there would be a
record.
Speakers in Opposition to the Appellant: none
Speakers with General Comments: none
Rebuttal: none.
Staff responded to questions from the Board relative to allowance for
composite materials for the signs and relative to the internal lighting issues.
Paul Patel responded to questions from the Board relative to
the sign materials.
Supervisor Cann provided input on the allowance of non-natural materials
and showed an example of a sign that looks like wood.
Paul Patel stated he is opposed to externally lighting the sign
because people will not be able to read it as they drive by. He asked whether he
would receive an answer today on his appeal; and he advised of the May 17th
deadline he received from Best Western to install a sign or lose the franchise -
that his business depends on getting the sign installed.
The public portion of the hearing was closed and the Board commenced with
deliberations.
Motion by Turpin to continue the hearing until the new sign Ordinance is finalized, was held for further deliberations. County Counsel advised that there are two options from a procedural standpoint: take action on the current appeal; or the appellant could withdraw the appeal without prejudice. The Board recessed at 3:28 p.m. and reconvened at 3:42 p.m.
Paul Patel provided input on his May 17th deadline with Best Western and the options for the Board; and expressed concern with withdrawing the appeal without prejudice.
County Counsel responded to a question from the Board as to whether the hearing could be continued.
Paul Patel stated he would like to see the Board take action today unless a positive action could be taken on May 15th for his sign. He noted that the Planning Director offered to assist him with writing a letter to Best Western explaining the sign ordinance. He referred to the plastic, internally lit sign that was allowed in 2009 and asked that he be allowed to do the same.
Further discussion was held.
Paul Patel stated that if the County would write a letter to Best Western as discussed, he would withdraw his appeal. He responded to questions from the Board and clarified that if the County will send a letter to Best Western asking for more time for the installation of the new sign, that he will withdraw his appeal.
Supervisor Turpin restated his motion, based on his understanding that the appellant is withdrawing his appeal, that there would be consideration of refunding the appeal fees and that the Planning Department would prepare a letter to Best Western taking into consideration the issues discussed during the hearing and advising that a new final version of the sign Ordinance is being considered for adoption in the near future; seconded by Supervisor Allen.
Supervisor Allen clarified that the appeal is being withdrawn without prejudice, agreeable with the maker. County Counsel advised that the Board should accept withdrawal of the appeal without prejudice, and subject to staff communicating with Best Western consideration of this appeal and the potential for future amendment to the sign Ordinance - the motion was amended accordingly by the maker, and agreeable with the second. Resolution No. 12-230 was adopted/Ayes: Unanimous.
County Counsel responded to a question relative to the procedure for considering a refund of the appeal filing fee; and he recommended that the Board hear the request from the appellant, staff comments, public comments, and deliberate, and take action. He advised that if a new appeal is filed, that appeal fees would need to be paid for that appeal.
Paul Patel requested a full refund of the appeal filing fees for this appeal. There was no input from the public.
Following discussion, (M)Cann, (S)Allen, the Board authorized a full refund of the appeal fees for this appeal/Ayes: Unanimous.

Cc: Bill Davis, Auditor
    Steven W. Dahlem, County Counsel
    File