



APPEAL FORM

Name: ELIEN DEBACH-RILEY Date: JULY 22, 2022

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Please describe below the action for which this appeal is being filed. (You may attach a separate letter if enough space is not provided.)

THIS APPEAL IS TO REQUEST THERE BE NO CITATION OF CODE VIOLATION AS STATED IN THE ADMINISTRATIVE CITATION WARNING # CE22-0857 REQUIRING OUR NEIGHBORHOOD IDENTITY SIGN BE REMOVED, AND THAT THE SIGN BE ALLOWED TO REMAIN UNTIL THIS PROCESS IS COMPLETE AND APPROVAL IS OBTAINED.

WE ASK THAT THE DECISION TO HAVE OUR SIGN REMOVED BE RECONSIDERED FOR REASONS STATED IN THE ATTACHED LETTER.

AS THE LETTER STATES, WE ARE NOT ASKING FOR ORDINANCE CHANGES. WE ARE ASKING FOR HELP IN FINDING A WAY TO GAIN APPROVAL TO HAVE OUR IDENTITY SIGN STAND IN OUR NEIGHBORHOOD INCLUDING ANY GUIDANCE OR CHANGES NEEDED TO BRING IT INTO COMPLIANCE.

THANK YOU, ELIEN DEBACH-RILEY, PRESIDENT HSUNA

Signed: ED Riley Date: 7/22/22

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Received by:
Project Being Appealed:
File Number:
Approving Body: Approval Date:

## Design Committee Appeal for Preserving the HSVNA Neighborhood Sign July 21, 2022

Introduction: Since 2019, the Historic Sierra Vista Neighborhood has been working towards erecting an identity sign for our neighborhood. In June of this year, we were finally successful in finding an owner approved location to erect a sign that was a resident approved design, completely financed by neighbor approved NA funds and erected by one of our residents. On June 29th, the property owner received an administrative citation warning to remove the sign in 12 days or face \$100/day fines. The neighborhood association has, since that time, had multiple contacts with Greg Bitter and other city officials to find a solution to preserve our sign. The following is a summary of our assessment and requested actions.

It was suggested that Title 17 must be interpreted in the order it is written. These are the sections we find that apply.

### 17.02 Adoption of Sign Regulations (page 4)

**17.02.015 Regulatory Scope:** "This Title regulates signs, as defined herein, when they are on private property or otherwise....." Our sign is on private property.

**17.02.030 Purpose and intent:** "...is to create...regulation which will facilitate communication and esthetics." Ours does. "...to authorize the use of signs which;

- A. "Encourage a desirable urban character consistent with the general plan". Ours does.
- B. "Preserve and improve the appearance of the city as a place to live, work and visit". Ours does.
- C. "Eliminate confusion, distracting, or dangerous sign displays which interfere with vehicular traffic and the safety of drivers, passengers and pedestrians". Ours doesn't.
- D.
- E. "Provide for fair and equal treatment of sign users." We are asking for equal treatment as that afforded newer neighborhoods in our city, like "Sierra Vista" on the west side of town, causing confusion over the same name

**17.02.060 Basic Policies for Sign Regulation. Regulatory Interpretations.** "...Where a particular type of sign is proposed in a permit application" (we were not allowed to complete a permit application), "and the type is neither expressly allowed nor prohibited by this Title,... then the director shall approve, conditionally approve or disapprove the application based on the most similar sign type...". We would like the opportunity to complete a sign permit application and request approval either as is or modified in order to be compliant as described in "**Discretionary Approvals.** Whenever any sign permit, exception or other sign-related decision is made by any exercise of official discretion, such discretion shall be exercised only as to the non-communicative aspects of the sign, such as size height, orientation, location setback, illumination, spacing scale and mass of the structure, etc." Discretionary approval is requested given the sign is on private property, is neither commercial or non-commercial as defined and therefore is not described in this Title.

**Question: Mixed Use Zones or Overlay Districts.** If this property were re-zoned, would that change this determination? **Owner's consent.** We have the owner's consent.

17.04 Definitions (page 6)

17.04.165 "Commercial message means a message that relates primarily to economic interests..." This does not apply to our sign.

17.04.280 "Freestanding sign means any sign not affixed to a building...". This does apply to our sign.

17.04.370 "Individual uses means a non-residential use of property located in non-residential zones". Our sign is not this.

17.04.460 "Non-commercial sign means a sign with a message which...typically relates to debatable matters of public concern, such as, ...advocacy on politics, religion...etc." Our sign is not this.

17.04.660 "**Sign Exception** means an approval to deviate from specified criteria of this Title due to unique situations...not generally shared by other properties resulting from the strict application of the requirements of this Title". Ours is a unique situation given our sign meets the purpose and intent of this Title but the "type is neither expressly allowed nor prohibited by this Title" given it does not meet any specified sign definitions based on type of message or location.

17.06 Signs Requiring a Permit (page 16)

Article 1. Individual Uses. As previously defined, ours is a non-residential use but is not in a non-residential zone. **Where** in our neighborhood would this apply?

Articles 2-5 do not apply.

Article 6. Subdivision Signs. MAY apply as follows:

17.06.630 On-Site subdivision signs.

- A. Number. Our sign complies
- B. Location. Our sign complies
- C. Area. Our sign complies
- D. Height. Our sign exceeds this criteria

Article 7. **Miscellaneous Uses.** Most applicable option in this section, "signs requiring a permit". I'm told we cannot apply for a permit because the sign is not expressly permitted anywhere in Title 17.

**17.06.720 Non-residential uses in residential zones.** I've been told this cannot apply because the property is residential and not a "non-residential use", meaning it is not being used for a commercial use. Yet the sign is a "non-residential use" of this residential property.

- A. Number. Our sign complies
- B. Location. Our sign complies
- C. Area. Our sign complies
- D. Height. Our sign complies

THEN the ordinance continues to describe procedures (17.08), which when the previous chapters are considered FIRST, as it was explained to me, would not apply unless those measures were met.

THUSFAR in this ordinance, Our sign meets the Purpose and Intent and the definition of criteria qualifying for Discretionary Approval consideration (17.02), is NOT defined as explicitly permitted or prohibited anywhere in (17.04) EXCEPT where a sign exception is defined, and it meets the description of a sign requiring a permit under Article 7, non-residential uses in residential zones (17.06).

#### 17.08 Procedures (page 27)

##### Article 1. Sign Permits

17.08.110 Unless the sign is exempt...pursuant to Chapter 17.10, **a sign permit must be obtained.** Our sign does not meet any exemptions stated in Chapter 17.10 as described in either Chapter 17.08 or prohibited by Chapter 17.12

##### Article 4. Exceptions

17.08.410 **Exceptions** in general. "Where practical difficulties,.....result from the strict application of the requirements of this Title, **exceptions** from such requirements **may be granted** by the Director...provided...that no exception from the provisions of Chapter 17.12 (Prohibited Signs...)is permitted. Our sign does not meet the criteria for prohibited signs under Chapter 17.12, including that for which we were cited, 17.12.010 K which states "Off-site commercial signs" are prohibited. Our sign is not a commercial sign per prior definitions.

##### 17.08.440 **Sign Exception approval criteria**

- A. "...consistent with the purpose and intent of this Title". Our sign is.
- B. "...in harmony with the...surrounding development". Our sign is.
- C. "...consistent with the adopted specific plan". We have no specific plan
- D. "There are exceptional or extraordinary circumstances or conditions...".

These have been previously mentioned. Our sign qualifies.

##### Article 5. Public Hearings and **Appeals**

17.08.510 Appeals from the decision of the Director. "...a person may, within ten (10) days of such a decision, appeal the decision to the Design Committee upon filing of a written appeal with the City Clerk and the payment of a non-refundable fee...". Our administrative citation warning was issued on June 29th demanding the sign be removed by July 11 and was subsequently extended to July 29th. We were only informed of this appeal option yesterday which included a fee of **\$1,697.44**. Our small neighborhood association currently only has approx. \$1,100 so this cost is quite prohibitive. **We believe a better solution would be to allow us to apply for a sign permit(17.08.110) as an exception (17.08.410/17.08.440) or under 17.06.720 Non-residential uses in residential zones.**

##### Article 6. Violations...

##### 17.08.610 Violations

**C. "Any type of sign not expressly permitted in this Title is prohibited...". This blanket prohibition negates all the previous conditions described and denies us the opportunity to "fair and equal treatment" as stated in this Title's purpose and intent.**

**This is the violation we have now been informed for which we are being cited. It is being recommended we pursue the Appeal process previously described which is completely out of our means. We are appealing to your ability to HELP US achieve this very modest goal of expressing our PRIDE in being residents of our HISTORIC SIERRA VISTA NEIGHBORHOOD through the preservation of our resident approved, financed and erected identity sign. PLEASE help us find a solution to meet this goal.**

**With Gratitude for your Consideration,  
Ellen Debach-Riley, President, Historic Sierra Vista Neighborhood Association**