

**CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Florencio Peña, Director, Development Services

SUBJECT: Appeal of Director's Decision to Deny a Billboard Relocation Permit

DATE: February 10, 2005

SUMMARY AND RECOMMENDATIONS

An appeal to City Council regarding the decision of the Director of Development Services to deny a billboard relocation permit at 13111 San Pedro and consideration of a variance to the code requirements for billboards as submitted by Aetna Sign Group, Ltd.

Staff recommends denial of the appeal and variance request.

BACKGROUND INFORMATION

The proposed sign is to be located at 13111 San Pedro and would advertise for the Embassy 12 Theater. The Embassy 12 Theatre is located at 13707 Embassy Row positioned across a roadway behind the Goodwill store along US 281 North. The existing sign structure currently is classified and permitted with the City as an on-premises multi-tenant sign structure with five existing cabinets, four of which are presently in use.

The Electrical Examining and Supervising Board serves as an advisory board to the Director of Development Services in matters involving billboards. The Board made a recommendation for approval of the applicant's request.

The application in question is for an off-premises sign. The definition for an off-premises sign according to City Code is, "any sign not meeting the definition of or considered an on-premises sign including but not necessarily limited to a sign that pertains or directs attention to a business, product, service, activity, person, organization, institution, event, place, object, or location not located, manufactured, conducted, sold, or offered on the premises on which the sign is located." The proposed sign is considered an off-premises sign because the Embassy 12 Theatre is located at 13707 Embassy Row and the current sign structure that would advertise the theatre is located at 13111 San Pedro.

Staff recommends denial of the appeal because: (1) the applicant is not a licensed billboard operator pursuant to Chapter 28, Section 51 of the City Code and (2) the applicant did not identify two demolition permit numbers for billboards removed pursuant to Chapter 28, Section 93 of the City Code.

POLICY ANALYSIS

There are several issues to consider regarding approval of this appeal: (1) if the sign is determined by City Council to be an off-premises sign, it should be noted that the applicant is not licensed nor is he removing two billboards which is contrary to code and (2) if the City Council determines that the sign is an on-premises sign, then an amendment to the City's code may be required or justification given why a variance to the code should be granted.

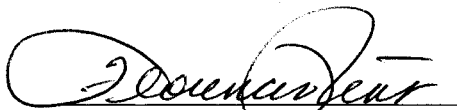
Council may grant a variance; however, the removal of such distinction in sign types and uses is detrimental to the City code and would open avenues for others to reinterpret the intent of the code as it applies to these two distinct sign types of on and off-premises sign uses.

FISCAL IMPACT


There is no financial impact.

COORDINATION

This issue has been coordinated with the Electrical Examining and Supervising Board, and the City Attorney's office.



Florencio Peña, Director
Development Services Department


Christopher J. Brady
Assistant City Manager

J. Rolando Bono
Interim City Manager



OVER 70 YEARS OF SIGNING THE BEST NAMES IN BUSINESS

November 23, 2004

Mrs. Leticia M. Vacek, TRMC, CMC
City Clerk
City of San Antonio
Office of the City Clerk
100 Military Plaza
San Antonio, Texas 78205

RE: Embassy Theater Sign Faces

Dear Mrs. Vacek,

I hereby request a hearing in front of City Council regarding a decision that was made by Mr. Florencio Pena on November 17, 2004. I would like to appeal his decision to City Council, as I believe that the sections of the code that he cites are not relevant to this particular case.

Inside our proposal we are not increasing the square footage or the height of the sign nor are we adding any additional poles or signs. We are simply requesting to install two (2) faces in an existing multi-tenant sign to serve as a directional for the movie theater.

The Electrical Board unanimously recommended that the Director of Development Services approve the proposal that I submitted at their November 9, 2004 meeting. I have attached a copy of the letter from Mr. Pena along with the drawing detailing our proposal.

Please let me know when I will be able to appear in front of the council regarding this matter.

Thank you for your consideration.

Sincerely,

Charles L. Gottsman, President
Aetna Sign Group, Ltd.

CLG/cr

888-609-SIGN (7446)

300 AUSTIN HWY., SUITE 100

SAN ANTONIO, TX 78209

(210) 826-2800

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CITY OF SAN ANTONIO

P. O. BOX 839966
SAN ANTONIO TEXAS 78283-3966

November 17, 2004

Mr. Larry Gottsman
Aetna Sign Group
300 Austin Highway, Suite 100
San Antonio, Texas 78209

Via: Certified Mail

Dear Mr. Gottsman:

The Chief Sign Inspector and Electrical Examining Board reviewed your billboard application to add an off premise sign face to the structure located at 13111 San Pedro. The Chief Sign Inspector denied your application and Electrical Examining Board has made a recommendation to allow the advertisement as proposed. I have reviewed your application and recommendations by the Chief Sign Inspector and Board and hereby deny your application.

Your application is denied for the following reasons: 1) Section 28-51 requires only licensed billboard operators to construct off premise advertisement. You are not a licensed Billboard operator. 2) Section 28-93 requires that a new off premise sign application identify demolition permit numbers displaying the removal of two existing billboards. Your application did not identify two existing billboards proposed for demolition.

Staff has recommended that you consider using Section 28-244 the Sign Master Plan Development Agreement. This provision offers flexibility of sign placement in exchange for cumulative reduction in sign area and height. This provision would simply require contiguous lot property owners to agree on a master plan for signs affecting their properties. Action by the Board of Adjustment would be required of a Master Plan Development Agreement.

Finally, Section 28-247 provides an applicant the right to appeal the Decision of the Development Services Director to the City Council within 7 days from the date of your receipt of this letter. If you wish to appeal this decision to City Council please contact the City Clerk. If I may offer any further guidance, insight, assistance or suggestions please do not hesitate to contact me directly at 207-8232.

Sincerely,

Florencio Peña, III
Director
Development Services



OVER 70 YEARS OF SIGNING THE BEST NAMES IN BUSINESS

October 13, 2004

Mr. Ray Martinez
City of San Antonio
1901 S. Alamo
San Antonio, Texas 78204

RE: New Directional Sign Faces for Embassy 14 Theater

Dear Ray,

This letter will serve to outline the circumstances surrounding my request to be brought before the Electrical Board on October 26. There is currently an existing on-premise multi-tenant sign located at 13111 San Pedro. The owner of this pylon sign has agreed to allow John Santikos, the owner of Embassy 14 Theater, to install two directional faces which will properly direct traffic to the theater. In the present situation, motorists are unsure where to turn in order to get to the theater and there is a lot of stop and go traffic as people search for the proper street access. These faces would be a significant step in alleviating this problem.

The request we are making is unique in nature for a number of reasons. Some of these include:

1. It cannot be classified as an on-premise sign because it is advertising an off-premise business.
2. It does not fall under the guidelines of off-premise signage because we are not installing a new structure which would require the removal of two existing structures.

What we are attempting to accomplish at this location is similar to a situation up the street where we installed an off-premise theater sign under a new structure housing an on-premise sign for Goodwill Industries. The Board of Adjustment unanimously approved our application for the combination on-premise/off-premise sign because the end result did not result in any additional square footage at this site.

A similar circumstance exists with this new application. We will not be increasing the square footage of the existing sign in any way. We are simply using an existing panel to install a directional face that will be used to improve traffic flow at this location. There are provisions under the Master Sign Plan section of the 1996 Sign Code which will allow for situations such as the one I am requesting. Unfortunately the property around the theater was developed long before the new sign ordinance was adopted.

I have enclosed drawings showing the proposed signage at this location for your review. Thank you for your consideration in this matter.

Sincerely,



Charles L. Gottsman, President
Aetna Sign Group, Ltd.

CLG/cr
Enclosure

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