

CITY OF MERCED
Planning Commission
Resolution #4162

WHEREAS, the Merced City Planning Commission at its regular meeting of July, 9, 2025, held a public hearing and considered Conditional Use Permit #25-0007 and Site Plan Review Permit #25-0009, initiated by Marco Ospina, on behalf of Marketplace at Merced LLC, property owner. The Conditional Use Permit would allow a shopping center sign (with a digital screen) for the Market Place at Merced. The Site Plan Review Permit would allow the applicant to set the development standards for the shopping center sign. The subject site is located on the parking lot for 851 West Olive Avenue, generally located north of West Olive Avenue, approximately 425 feet east of R Street. The subject site has a General Plan designation of Regional Community/Commercial (RC) and a Zoning classification of Planned Development (P-D) #1. Said property being more particularly described as Parcel B as shown on that certain Parcel Map entitled "Parcel Map for Merced Mall, LTD," recorded in Book 78, Page 42 of Merced County Records; also known as Assessor's Parcel Number (APN) 236-220-050.

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through F as outlined in Exhibit B; and,

WHEREAS, the Merced City Planning Commission concurs with the Findings for Conditional Use Permits in Merced Municipal Code Section 20.68.020 (E), and other Considerations as outlined in Exhibit B; and,

WHEREAS, the Merced City Planning Commission concurs with the Findings for Site Plan Review Permits in Merced Municipal Code Section 20.68.050 (F), and other Considerations as outlined in Exhibit B; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #25-0017, and approve Conditional Use Permit #25-0007 and Site Plan Review Permit #25-0009 subject to the Conditions set forth in Exhibit A of Planning Commission Resolution #4162 attached hereto and incorporated herein by reference.

Upon motion by Commissioner _____ seconded by
Commissioner _____, and carried by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Attachment A

PLANNING COMMISSION RESOLUTION #4162

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July 7, 2025

Adopted this 9th day of July 2025

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachments:

Exhibit A - Conditions of Approval

Exhibit B - Findings

Conditions of Approval
Planning Commission Resolution #4162
Conditional Use Permit #25-0007 and Site Plan Review Permit #25-0009

1. The proposed project shall be constructed/designed/operated as shown on the Elevations (Attachment C of Planning Commission Staff Report #25-622), except as modified by the conditions.
2. All conditions contained in Resolution #1283-Amended (“Standard Conditional Use Permit Conditions”)
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, suits, or proceeding. Developer/applicant shall be responsible to immediately prefund the litigation cost of the City including, but not limited to, City’s attorney’s fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval of the City Attorney and to provide all required deposits to fully fund the City’s defense immediately but in no event later than five (5) days from that date

of a demand to do so from City. In addition, the developer/applicant shall be required to satisfy any monetary obligations imposed on City by any order or judgment.

6. The developer/applicant shall demolish, construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
7. All signing shall comply with the City's Sign Ordinance. Building permits shall be obtained prior to installing any permanent signing. A Temporary Sign Permit shall be obtained prior to installing any temporary signs or banners. Temporary freestanding or A-frame signs are not allowed.
8. This approval allows the installation of a 48 foot-tall shopping center sign with tenant cabinets and a digital display sign. The shopping center sign would be 30 feet wide, and the digital screen would be 360 square feet in size. Any increase or modification to the size of the sign shall be subject to review by the Director of Development Services, or if deemed necessary, the Planning Commission.
9. All existing landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be replaced immediately.
10. The premises shall remain clean and free of debris and graffiti at all times.
11. The City may use the digital screen to advertise City – or community sponsored events, pursuant to MMC Section 20.62.140. (B.4).
12. No portion of the digital display sign shall change more frequently than once every eight (8) seconds.
13. No portion of the digital display sign shall flash, blink, or include video display.
14. The sign shall not emit any audible sound, buzz, or noise.
15. The sign shall be limited to advertising related uses(s) on the premises on which the sign is located, except as allowed in MMC Section 20.62.140. (B.4).

Findings and Considerations
Planning Commission Resolution #4162
Conditional Use Permit #25-0007 and Site Plan Review Permit #25-0009

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed Project complies with the General Plan designation of Regional/Community Commercial (RC) and the Zoning classification of Planned Development (P-D) #1, with approval of this Conditional Use Permit and Site Plan Review Permit.

Signage

- B) The applicant is proposing signage that exceeds the size of what is normally allowed within the regional community commercial designation. With this conditional use permit and site plan review permit, the applicant would be allowed to construct the sign as proposed.

Shopping Center Signs are allowed for shopping centers over 25,000 square feet of commercial space, pursuant to Merced Municipal Code (MMC) 20.62.140-Additional Shopping Center Signs. Digital screens are also allowed pursuant to MMC Section 20.62.250 - Digital Display Signs.

However, the maximum height for shopping center signs with an RC designation is 28 feet, but can be increased to 48 feet with the inclusion of the City logo at the top of the sign, and the landscaping at the base of the sign (elevations at Attachments C of Planning Commission Staff Report #25-622). This additional height of 70% for the free-standing sign is allowed under MMC Sections 20.62.140 (A) and (B).

Given that the shopping center (Market Place at Merced) is significantly over 25,000 square feet, at approximately 440,000 square feet, the applicant believed that they need a larger free-standing sign that reflects the scale of their commercial space. The site plan review permit allows the applicant to set the development standards for the shopping center sign, as the site is located within Planned Development (P-D) #1. As shown on the elevations at Attachment C of Planning Commission Staff Report #25-622, the proposed sign would be 48 feet tall, 30 feet wide, and include a digital screen that would be 360 square feet in size.

The proposed shall also be reviewed with a building permit and shall be required to comply with all other regulations in the City's Sign Ordinance.

Neighborhood Impact / Public Comments

- C) Staff mailed a public hearing notice to property owners within 300 feet of the subject site and published the public hearing notice in the Merced County Times. As of the time this report was prepared, (7/3/2025), Planning staff did not receive any formal comments from any residents or business owners.

The subject site is located within a commercial shopping center with a variety of commercial uses. The proposed 48-foot-tall sign would replace an existing 45-foot-tall sign, and is consistent with the variety of commercial uses found along this segment of West Olive Street, including a shopping center sign for the Save Mart Sopping Center at the southwest corner of Olive Avenue and G Street. Based on this information, staff is of the opinion that the proposed sign is compatible with the neighborhood.

Conditional Use Permit Findings

- D) A conditional use permit (CUP) is required to consider allowing "bonus" sign area greater than what is allowed under an overall sign area permitted by Section 20.62.140. In order for the Planning Commission to approve or deny a CUP, they must consider the following criteria and make findings to support or deny each criteria per MMC 20.68.020 (E) Findings for Approval for Conditional Use Permits.

MMC 20.68.020 (E) Findings for Approval.

- 1. The proposed use is consistent with the purpose and standards of the zoning district, the general plan, and any adopted area or neighborhood plan, specific plan, or community plan.*

The proposed project complies with the General Plan designation of Regional Community Commercial (RC), and the Zoning classification of Planned Development (P-D) #1 with approval of this Conditional Use Permit and Site Plan Review Permit.

2. *The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the subject property.*

The applicant is proposing to replace an existing 45-foot-tall sign with a 48-foot-tall sign which is compatible with the existing and future land uses in the vicinity of the subject property.

3. *The proposed use will not be detrimental to the public health, safety, and welfare of the City.*

To ensure the proposal is not detrimental to the public health, safety, and welfare of the City, the applicant shall subsequently apply for building permits with the City's Building Department. Plans shall be submitted by a design professional and modifications shall be done by a licensed contractor (license type as required by the California Building Code).

4. *The proposed use is properly located within the City and adequately served by existing or planned services and infrastructure.*

The proposed sign is located on the north side of West Olive Avenue within the parking lot for Marketplace at Merced shopping center. The proposal would not need or interfere with City services or infrastructure.

Site Plan Review Findings

- E) Per Merced Municipal Code Section 20.68.050 – Site Plan Review Permit, the Site Plan Review Committee may approve an application for a Site Plan Review Permit only if all the following findings can be made:

1. *The proposed project is consistent with the General Plan and any adopted area, specific, community, or neighborhood plan.*

As shown under Finding A, the proposed project is consistent with the General Plan designation and Zoning classification for this site with approval of this Conditional Use Permit and Site Plan Review Permit.

2. *The proposed project complies with all applicable provisions of the zoning ordinance and Municipal Code.*

With approval of the conditions found in Exhibit A of Planning Commission Resolution #4162, the proposal would comply with all applicable provisions of the Zoning Ordinance and Municipal Code.

3. *The design and layout of the proposed project will not interfere with the use and enjoyment of existing and future neighboring properties and structures.*

The site is surrounded by commercial properties to the north, south, east, and west. The proposed sign is consistent with the surrounding commercial buildings. The proposed project would not interfere with the use and enjoyment of existing and future neighboring properties and structures.

4. *The proposed architectural design makes use of appropriate materials, texture and color, and will remain aesthetically appealing and appropriately maintained.*

The proposed sign would be consistent with the aesthetics of the surrounding commercial buildings. The sign would enhance the view and aesthetic of the site.

5. *Any proposed landscaping design, including color, location, size, texture, type, and coverage of plant materials, as well as provisions for irrigation, maintenance, and protection landscaping elements, will complement structures and provide an attractive environment.*

New landscaping must comply with all applicable landscaping standards found under Merced Municipal Code Section 20.36 – Landscaping, and any other Municipal Code or State requirements. Therefore, any proposed landscaping design, including color, location, size, texture, type, and coverage of plant materials, as well as provisions for irrigation, maintenance, and protection landscaping elements, will complement structures and provide an attractive environment.

6. *The proposed design will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity of the proposed project.*

The proposed meets City standards with approval of this permit and the conditions found within this resolution. The proposed project would not be materially detrimental to the public health, safety, or

welfare, or be injurious to the property or improvements in the vicinity of the proposed project.

Environmental Clearance

- F) Planning staff has conducted an environmental review (ERC-25-0017) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no further environmental review is needed) is being recommended (Attachment D of Planning Commission Staff Report #25-622).