

CITY OF MERCED
Planning Commission

Resolution #4103

WHEREAS, the Merced City Planning Commission at its regular meeting of January 18, 2023, held a public hearing and considered **Conditional Use Permit #1269**, initiated by Robert Dylina, on behalf of Golden State Realty Association, Inc., property owner. This application involves a request for a master sign program with a double-sided changeable copy sign (63 inches by 137.5 inches) for Auto Resources at 1500 W. 16th Street, generally located at the southwest corner of V Street and 16th Street, within a Zoning classification of General Commercial (C-G), with a General Plan Designation of General Commercial (CG); also known as Assessor's Parcel Number (APN) 031-171-001; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through H (Exhibit B) of Staff Report #23-034; 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 Findings for Design Review Permits in Merced Municipal Code Section 20.68.030 (H) 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 #22-46, and approve Conditional Use Permit #1269, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

PLANNING COMMISSION RESOLUTION #4103

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January 18, 2023

Adopted this 18th day of January 2023

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B - Findings

Conditions of Approval
Planning Commission Resolution #4103
Conditional Use Permit #1269

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (Master Sign Program) and Exhibit 2 (Pylon Sign), - Attachments C and D of Planning Commission Staff Report #23-032, except as modified by the conditions.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
3. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
4. 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.

5. The developer/applicant shall 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.
6. No temporary freestanding or moveable signs shall be allowed, unless otherwise authorized by the Municipal Code.
7. Full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
8. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
9. Additional wall mounted and monument signs may be considered for the subject site as allowed by the Merced Municipal Code. Additional signage would be treaded as an addendum to this approval, and shall be processed with a staff level design review permit for signage.
10. The changeable copy sign shall comply with Merced Municipal Code Section 20.36.667.L.2.C – Free-Standing or Wall-Mounted Signs, including those provisions that allow for advertising for public events as determined by the City of Merced.
11. The proposed changeable copy sign shall not advertise private businesses that are located off-site. Only on-site businesses shall be allowed to advertise on the changeable copy sign, except as allowed for public events.
12. The changeable copy sign cannot include any type of signs deemed a traffic hazard by the City Engineer for vehicles driving along the frontage of this site. This may include the use of scrolling text, flashing signs, or rapidly rotating advertisements.

13. Future wall mounted signs or monument signs, shall be designed to match the pylon sign. This shall require using similar colors, textures, material, and overall aesthetic style.
14. Minor modifications to Master Sign Program may be reviewed and approved by the Director of Development Services, or if deemed necessary be referred to the Site Plan Review Commission, or Planning Commission.
15. In the event that the Master Sign Program conflicts with the Merced Municipal Code, the stricter of the two shall be implemented.
16. Final locations of all signs, including required setbacks from intersections and driveways as determined by the Municipal Code, are subject to Planning Division approval at the time of issuance of a sign permit.
17. The changeable copy sign shall not display videos.
18. Advertisement slides on the changeable copy sign shall be spaced apart in time by at least 15 seconds between rotations. The timing between slides may be modified by the Director of Development Services or be referred to the Site Plan Review Committee if determined appropriate by the Director of Development Services.
19. The pylon sign shall be located outside the vision triangle area per Merced Municipal Code Section 20.30.030 – Corner Vision Triangles, and Table 20.32.2 Required Vision Triangle Distance by Street Type.
20. The pylon sign shall be finished with an anti-graffiti protective coat.
21. Prior to construction, an illumination study shall be submitted for the changeable copy sign and approved by the Director of Development Services or designee. The purpose of the study is to ensure that illumination levels of the sign are set at a level so as not to unduly impact surrounding uses.
22. The changeable copy sign shall be turned off from the hours of 11:00 p.m. to 7:00 a.m. daily.
23. The digital copy sign shall be of variable luminosity to reduce illumination based on the light available. If there are issues with luminosity projections being a driving distraction or causing vehicle accidents, the City Engineer may require reduction in illumination at their discretion.

24. The existing pylon structure shall be refinished with a fresh coat of paint, to match the existing colors. A change in colors shall require staff level design review approval for paint.
25. Approval of this Master Sign Program qualifies as approval of design review.

**Findings and Considerations
Planning Commission Resolution #4103
Conditional Use Permit #1269**

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of General Commercial (CG), with the Zoning designation of General Commercial (CG) with approval of this Conditional Use Permit and Design Review Permit.

Public Improvements/City Services

- B) Full public improvements to be installed/repared if the permit value of the project exceeds \$100,000.00 (Condition #7). Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations. The need for any new improvements or repairs to existing improvements would be determined by the Engineering Department at the building permit stage.

Signage

- C) All signs would be required to comply with the Merced Municipal Code. Building permits are required prior to the installation of any permanent signs. The Master Sign Program includes several standards that are consistent with the Design Review District, Freeway District, and Automotive District. In the event that the Master Sign Program conflicts with the Sign Ordinance, the stricter of the two codes shall be implemented (Condition #16). This also applies to usage and duration of temporary signs.

Changeable Copy Sign on Pylon Structure

- D) The applicant has provided the Master Sign Program shown at Attachment C of Planning Commission Staff Report #23-034. Sign permit applications shall be submitted to the Building Department to ensure a cohesive aesthetic between the new changeable copy sign and other new or existing signs on the existing pylon structure. Consideration

for design, materials, and colors as reviewed by the Planning Commission. The existing double-sided freeway pylon sign would remain the same height and placed at the same location, providing visibility for both the north-bound and south-bound lanes along V Street. The pylon sign is placed away from the vision corner triangle area. The pylon sign currently includes two signs, one at the top of the structure and another about 15 feet above ground level. Both of these signs would be refinished or replaced. The applicant is proposing to install the changeable copy sign either above or below the lower existing sign. The changeable copy sign would be double-sided with dimensions being 63 inches by 138 inches.

Per MMC 17.36.667.L.2.C a free-standing sign may include a changeable copy (digital board) if it meets specific standards as shown at Attachment E of Planning Commission Staff Report #23-034, with the inclusion of periodically displaying City/community events or safety campaigns (and other matters) as directed by the City of Merced. Although this section is tied to signs in “North Merced,” staff is recommending this section so the proposal is consistent with other Changeable Copy sign approvals for the shopping centers at G Street and Yosemite Avenue, Campus Parkway Plaza, and El Portal Plaza.

Neighborhood Impact/Public Comments

- E) Due to surrounding uses and proximity to a traffic signal, staff has proposed several conditions (#18, #19, #22, and #23) to minimize impacts of the sign on those uses and vehicles driving in the area regarding slide rotation timing (every 15 seconds), sign placement outside vision triangle area, operation hours (between 7:00 a.m. and 11:00 p.m.), and illumination. 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, Planning staff has not received any comments from the public.

Conditional Use Permit

- F) A conditional use permit (CUP) with a master sign program is required to allow a changeable copy for an automotive dealership. In order for the Planning Commission to approve or deny a conditional use permit, they must consider the following criteria and make findings to support or deny

each criteria per Merced Municipal Code (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 changeable copy sign complies with the General Plan designation of General Commercial (CG), and the zoning classification of General Commercial (CG) with approval of this Conditional Use 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.*

All signs shall be required to comply with the Merced Municipal Code and the proposed Master Sign Program. In addition, the color scheme, textures, and design of the pylon sign will match or compliment the new building for this site.

- 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 sign permits with the City's Building Department. Plans shall be submitted by a design professional and signage installation shall be done by a licensed contractor (license type as required by the California Building Code). Several conditions to limit the impacts of the changeable copy sign on surrounding uses and drivers within this area have been proposed.

- 4. The proposed use is properly located within the city and adequately*

served by existing or planned services and infrastructure.

The proposed signs are located within the City and can be adequately served by existing services and infrastructure. The project will also comply with the following Code section regarding the Freestanding Pylon Sign:

“Merced Municipal Code Section 17.36.667.L.2.C – Free-Standing and Wall-Mounted Signs

Merced Municipal Code Section 17.36.667.L.2.C – Free-Standing and Wall-Mounted Signs note that a “Changeable Copy Sign” may be allowed if the property owner agrees to allow the City to advertise City/community sponsored events, or outreach campaigns (e.g. Safe and Sane Fireworks during 4th of July, etc.) at the discretion of the City as part of a continuous rotation of advertising. Besides this, changeable copy signs may not advertise activities or businesses not occurring on premise. The property owner is aware of this requirement, which is being included under Conditions #10 and #11.

Mandatory Findings - Design Review

- G) The subject site is located within the City’s Design Review District. As such, design review shall be considered with this review. Typically, signs within a design review boundary are processed administratively, but to consolidate the entitlement process this request for conditional use permit would also qualify as design review approval. Attachment F of Planning Commission Staff Report #23-034 contains the Design Review Boundary Map (Figure 20.68-1- Design Review Boundary) along with features to consider [MMC 20.68.030 (F)] and design review principals [MMC 20.68.030 (G)] for the Planning Commission’s consideration.

Per Merced Municipal Code Section 20.68.030 (H) Design Review Permit, the review authority may approve an application for a Design Review Permit application only if all of the following findings can be made:

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

As shown under Finding A, the proposed project is consistent with the General Plan designation and Zoning classification for this site per Finding A above.

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

With approval of the conditions found within this resolution, the proposal would comply with all applicable provisions of the Zoning Ordinance and Municipal Code.

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

With approval of the conditions found within this resolution, the pylon design and layout described under Finding D and shown at Attachments B and C of Planning Commission Staff Report #23-034 would not interfere with the enjoyment of existing and future neighboring properties and structures.

- d. 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 proposal 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

- H) Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption is being recommended (Attachment G of Planning Commission Staff Report #23-034).