

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #19-25 - Addendum

AGENDA ITEM: 4.3

FROM & Kim Espinosa,
PREPARED BY: Planning Manager

PLANNING COMMISSION
MEETING DATE: Oct. 9, 2019
(Continued from Sept. 18, 2019)

CITY COUNCIL
MEETING DATE: Nov. 18, 2019
(Tentative)

SUBJECT: **Sign/Zoning Ordinance Amendment #19-04**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Chapter 20.62 “Signs” of the Merced Municipal Code) and Sign Ordinance (Chapter 17.36 “Signs” of the Merced Municipal Code), including Article I—Definitions, Article II—General Regulations, Article III—Regulations for North Merced, and Article IV—Regulations for Downtown. This amendment would involve various additions and modifications to the City’s requirements for signs. *PUBLIC HEARING*

ACTION: **PLANNING COMMISSION:**

Recommendation to City Council

- 1) Environmental Review #19-21 (Categorical Exemption)
- 2) Sign/Zoning Ordinance Amendment #19-04

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #19-21 (Categorical Exemption)
- 2) Zoning Ordinance Amendment #19-04

SUMMARY

The City is proposing various amendments to the Sign and Zoning Ordinances regarding sign regulations to address some immediate issues prior to the commencement of a Comprehensive Sign Ordinance Update in late 2019/early 2020. These amendments would include new/modified definitions; the allowance of new comprehensive sign programs (including bonus signage amounts and features in exchange for meeting certain criteria and/or providing community benefits) for shopping centers in all areas of the City through the adoption of a conditional use permit; the elimination of the requirement for administrative conditional use permits for various signs in Commercial Office (C-O) areas, monument signs, and decorative wall signs; exempting sign area on monument signs and shopping center signs from the maximum allowable sign area for individual tenants; and the allowance for comprehensive sign programs for historic resources or buildings over 2 stories in the Downtown area. The Planning Commission reviewed the changes on September 18, 2019, and continued the public hearing to allow more time for legal review. The City Attorney’s office has completed their review, and there were a number of changes, which are outlined in Findings B and D below. Staff is recommending approval of the revised Ordinance. (Changes from the previous staff report are presented in underlined text.)

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of a Categorical Exemption (Environmental Review #19-21—Attachment B) and Sign/Zoning Ordinance Amendment #19-04 (including the adoption of the Resolution at Attachment C) as described in the Draft Ordinance at Attachment A.

PROJECT DESCRIPTION

This application involves changes to the Merced Zoning Ordinance (Chapter 20.62 “Signs” of the Merced Municipal Code) and Sign Ordinance (Chapter 17.36 “Signs” of the Merced Municipal Code), including Article I—Definitions, Article II—General Regulations, Article III—Regulations for North Merced, and Article IV—Regulations for Downtown. This amendment would involve various additions and modifications to the City’s requirements for signs including, but not limited to, new/modified definitions; the allowance of new comprehensive sign programs (including bonus signage amounts and features in exchange for meeting certain criteria and/or providing community benefits) for shopping centers in all areas of the City through the adoption of a conditional use permit; the elimination of the requirement for administrative conditional use permits for various signs in Commercial Office (C-O) areas, monument signs, and decorative wall signs; exempting sign area on monument signs and shopping center signs from the allowable sign area for individual tenants; and the allowance for comprehensive sign programs for historic resources or buildings over 2 stories in the Downtown area.

BACKGROUND

The City of Merced’s current regulations regarding signage can be found in two locations: 1) Section 17.36 under Title 17 (Buildings and Construction) of the Merced Municipal Code, which is subdivided into four sections; and, 2) Chapter 20.62 (Signs) of the City’s Zoning Ordinance (Title 20 of the Merced Municipal Code). Section 17.36, which is more commonly known as the Sign Ordinance, is subdivided into four major sections: 1) Article I—Definitions; 2) Article II—General Regulations; 3) Article III—Regulations for North Merced; and, 4) Article IV—Regulations for Downtown.

The City completed a comprehensive Zoning Ordinance Update in 2016. Under the previous Zoning Ordinance, regulations regarding signage were spread throughout the Zoning Code in addition to those within the Sign Ordinance (Section 17.36). Under the new Zoning Code, all the sign regulations within the Zoning Code were consolidated and reformatted into Chapter 20.62, but the regulations themselves did not change.

As mentioned above, the Sign Ordinance contains general regulations and definitions which apply to all areas of the City, but there are specific regulations that apply only to North Merced (north of Bear Creek) and the Downtown (which generally covers an area from 19th to 14th Streets and Bear Creek to Highway 99 that corresponds to the Design Review/previous Downtown Redevelopment Area boundary).

Both the North Merced and Downtown Sign Regulations were established in the early 1980’s in an effort to achieve higher standards for signage within those two areas than what was required for the rest of the City. The North Merced regulations include sign allowances based on frontage and distance from the street, regulations for monument signs and shopping center signs, a requirement

for signs to contain individual letters (except logos), and administrative and Planning Commission approvals required for many signs. The Downtown Sign Regulations include special provisions for a Freeway District and a Vehicle Sales District as well as for Blade Signs and Window signs.

Various sections of the Sign regulations have been amended over the years to address temporary signs, blade signs, monument signs, commercial sign allowances in North Merced, freestanding shopping center signs, billboards, and the Freeway District. However, a comprehensive update of the Sign Ordinance has not been completed. Subsequently, the City's current Sign Ordinance does not adequately address, and in some cases does not address at all, many modern sign designs (such as LED/Digital signs, inflatable signs, feather signs, sandwich boards, human signs, etc.), the Reed vs. Gilbert Supreme Court Case, and regulations for political signs, signs within the public right-of-way, gasoline price signs, and signs within residential zoning districts, to name just a few.

In July 2019, City staff issued a Request for Proposals (RFP) to hire consultants to complete a Comprehensive Sign Ordinance Update, with proposals due on September 13, 2019. (Two proposals were received and interviews with City staff are scheduled for October 16, 2019.) However, because of the extensive public and business outreach and the time (approximately 12-18 months) needed to complete a Comprehensive Sign Ordinance Update, City staff is currently proposing some minor amendments to the Sign Ordinance, mostly in North Merced and focused on Shopping Center Signs, to address some immediate needs raised by prospective and existing businesses in the City.

On September 18, 2019, staff went over the proposed sign ordinance revisions with the Planning Commission. After the discussion, the Planning Commission continued the public hearing to tonight's agenda to allow more time for legal review. The City Attorney's office has completed their review and there were a number of changes, which are noted in Findings B and D below.

FINDINGS/CONSIDERATIONS:

General Plan Policies Related to This Application

- A) The proposed sign/zoning ordinance amendment would make changes in response to various issues regarding signage that have been raised by prospective and existing businesses in the City. General Plan Implementing Action L-2.3.d calls for the City to review and update the Zoning and Sign Ordinances as needed.

General Overview of Proposed Changes to the Sign and Zoning Ordinance

- B) The City of Merced is proposing to adopt revisions to the Sign and Zoning Ordinances (Attachment A, now in the form of a draft ordinance) to address various signage issues prior to the Comprehensive Sign Ordinance Update. These modifications include:

Section 17.36 (Sign Ordinance)—Articles I through IV

- 1) Changing all the references to "Planning Director" or "Director of Planning" to "Director of Development Services" to address the change in job title since the code was originally adopted;
- 2) Changing all remaining references to the "Redevelopment Area" which were previously changed to "Downtown" or "Design Review Area" after the Redevelopment Agencies in California were dissolved in 2012, but a few were missed;

Section 17.36—Article I--Definitions

- 3) Adding or clarifying definitions to Article I of the Sign Code for “Changeable Copy Sign,” “Flashing Sign,” and “Moving Sign” in order to address conflicts between the definitions which do not allow for signs with changeable copy if done by digital means and to clarify that such signs will be allowed for certain uses, such as gasoline price signs, movie theaters, time/temperature signs, etc.;
- 4) Clarifying the definition of a “Marquee” to use more common language;

Section 17.36—Article II—General Regulations

- 5) Allowing “Marquee” signs to project over the outer edge of the marquee if approved by the Planning Commission through the adoption of a comprehensive sign program conditional use permit (see Findings C and D for a more detailed explanation of the comprehensive sign program);
- 6) Clarifying that for signs regulating on-premises parking or traffic (i.e. “Drive-thru,” “Enter Here,” “Exit,” etc.) that only the portion of the sign which contains an actual logo or name of the business is counted toward the maximum allowable signage;
- 7) Allowing shopping centers in all zones to be eligible for freestanding shopping center signs through the adoption of a comprehensive sign program (see Findings C and D);

Section 17.36—Article III—Regulations for North Merced

- 8) Removing the provision that allows for reducing the amount of maximum allowed signage for a business through a conditional use permit to the interests of fairness to all businesses;
- 9) Increasing the percentage of signage allowed on any one building frontage from 50 percent without a conditional use permit to 75 percent and allowing that to be approved by an administrative conditional use permit (issued by City staff);
- 10) Allowing shopping centers with tenants having no exterior walls to have directory signs up to 12 square feet without requiring a conditional use permit;
- 11) In Commercial Office (C-O) zones or Planned Developments with C-O designations:
 - (a) Removing the requirement for conditional use permits to get tenant signs up to 25 square feet;
 - (b) Increasing the size of a plaque identification sign for each building from 4 to 25 square feet;
 - (c) Allowing 50 percent bonus signage not to exceed 37.5 square feet for multi-story buildings, buildings with 100 feet or more of street frontage, or office complexes without requiring a conditional use permit
- 12) For monument signs and decorative wall signs:
 - (a) Allowing the signage on the monument sign or decorative wall sign to not count against the maximum allowed sign area for each tenant (currently it counts against the maximum allowed sign area);
 - (b) Removing the requirement to obtain a conditional use permit for various monument and decorative wall signs;
 - (c) Increasing the maximum percentage from 40 percent to 50 percent that the monument sign can cover of the face of the monument structure;

- 13) For Free-standing or wall-mounted Shopping Center Signs, which require a conditional use permit from the Planning Commission:
- (a) Reducing the minimum size of the shopping center to qualify for such signs from 35,000 square feet to 25,000 square feet;
 - (b) Allowing office complexes with a mix of retail and professional office tenants to qualify for such shopping center signs (i.e. the Plaza at El Portal is a good example of such a complex that doesn't currently qualify for such a sign);
 - (c) Tenant advertising on a shopping center sign will not count toward the maximum allowable signage for each tenant (it currently does count);
 - (d) Allows such signs to be illuminated unless adjacent to residential uses in which case the Planning Commission may allow the illumination, but with or without conditions (an example might be that the sign needs to be turned off by 10 p.m. or the amount of illumination would be reduced);
 - (e) Allowing any background area with trademark colors to not be counted toward the maximum allowable signage for the tenant (it current does);
 - (f) Increasing the maximum number of shopping center signs from 2 currently to up to 2 on each arterial street; reducing the amount of combined arterial street frontage required to qualify for one sign from 800 feet to 400 feet; and reducing the amount of additional street frontage to qualify for a second sign from 1,500 feet to 800 feet;
 - (g) Adding shopping centers in Thoroughfare Commercial (C-T) zones to qualify for the same shopping center signs as Neighborhood Commercial (C-N) zones;
 - (h) Increasing the maximum percentage from 40 percent to 50 percent that the sign area can cover of the face of the monument structure, increasing the amount from 40 to 50 square feet per face for C-N/C-T and from 104 to 130 square feet per face for Regional/Community Commercial (C-C) zones;
 - (i) Allowing the Planning Commission to reduce the minimum sign area for each tenant on a shopping center sign from 10 square feet to address unique circumstances;
 - (j) Adding the provisions for adoption of a Comprehensive Sign Program and "Bonus" signage through a Conditional Use Permit granted by the Planning Commission (See Findings C and D below for a detailed explanation);
 - (k) Removing the requirement for a conditional use permit for electronic time and temperature signs and allowing flags for commercial advertising purposes with an administrative conditional use permit.

Section 17.36—Article IV—Regulations for Downtown

- 14) Change all references to the "Design Review Commission" to the "Planning Commission/Design Review Commission" or simply "Planning Commission" as the Planning Commission took over the duties of the Design Review Commission in 2013;
- 15) Allowing Blade Signs to be more than 6 feet in height if approved as part of a comprehensive sign program (see Findings C and D below);
- 16) Allowing the replacement of sign faces or changes in the business name or logo for non-conforming signs without bringing the entire sign into compliance;

- 17) Allowing reproductions of historic signs to be installed (i.e. the historic “Hotel Tioga” sign was removed some years ago for repairs and the new owners would like to replace them, but the original letters have been lost);
- 18) Allowing Historic or Multi-Story buildings in the Downtown Area to qualify for a comprehensive sign program (see Findings C and D below);

Zoning Ordinance Chapter 20.62—Signs

- 19) Changing the current provisions that allow shopping centers on a lot of 10 acres or larger in Thoroughfare Commercial (C-T) zones to get additional signs to make them eligible for shopping center signs through a comprehensive sign program instead to be more consistent with what is allowed in other areas.

Comprehensive Sign Programs and Bonus Signage

- C) The most significant proposed change to the Sign/Zoning Ordinance would be to allow for the adoption of comprehensive sign programs for shopping centers (and offices with a mix of retail and office uses) through the adoption of a conditional use permit by the Planning Commission. Through the adoption of a comprehensive sign program, the shopping centers could also qualify for “bonus” signage above the maximum allowed if certain criteria are met.

Most shopping centers have comprehensive sign programs, but they are usually for internal use and spell out design criteria that the shopping center owners impose on their tenants to achieve consistency for signs throughout the center. However, there are examples of comprehensive sign programs that have been adopted by the City through the Planned Development/Master Plan process for such shopping centers as the Merced Marketplace (Lowe’s, Best Buy, etc.) on Olive Avenue and the recently approved Merced Gateway project at Highway 99 and Campus Parkway. Other existing or proposed shopping centers that have recently expressed an interest in having such comprehensive sign programs include the Merced Mall (including the former Sears building) on Olive Avenue, the proposed Campus Parkway Plaza project across Coffee Street from Merced Gateway, the Plaza at El Portal on G Street, as well as the Merced Marketplace wanting to amend their current program to meet the needs of existing and future tenants. Over the years, some new businesses have also wanted to explore the option of installing reader boards or LED signs, which are not allowed under the City’s current sign regulations in North Merced.

In recent years, the City has expressed interest in seeing more identification signage for the City of Merced itself, especially along important gateway/entrances to the City. That led to the idea of allowing shopping centers to obtain “bonus” signage in exchange for certain community benefits.

- D) The proposed additions regarding comprehensive sign programs and bonus signage which would add a new section “L” at the end of MMC 17.36.667 (pages 18 and 19 of Attachment A) are spelled out in their entirety below. After reviewing the proposed revisions, the City Attorney’s office noted that there could be First Amendment concerns with the requirement for public art and public open space in exchange for the bonus signage. Therefore, these sections have been changed to allow for enhanced design features, such as water features,

additional landscaping, decorative artwork, seating areas, etc., in exchange for the bonus signage. Some other minor language revisions were also made based on the legal review. With the other changes as noted in Finding B above, shopping centers throughout the City would qualify for these sign programs and bonus signage, not just centers in North Merced:

“L. Shopping Centers or office complexes with a mix of retail and professional office tenants may be allowed through a conditional use permit approved by the Planning Commission to adopt a comprehensive sign program as follows:

- 1. The comprehensive sign program shall consist of all signs on the premises that can be viewed from a public street, including but not limited to, directional signs, directory signs, shopping center signs, monument signs, and individual tenant signs. The sign program shall establish a comprehensive design theme and set forth size, location, illumination, materials, and other design requirements for all signs.*
- 2. With such a comprehensive sign program, a shopping center or mixed-use office complex may be eligible for “bonus” sign area greater than allowed under overall sign area permitted by Section, 17.36.650, "Total Square Footage—Commercial Zone," (or other sign size restrictions defined elsewhere in the Merced Municipal Code) if the following criteria are met. Items “a” and “b” below may be combined for a “bonus” of no more than 70 percent:*
 - a. A “Bonus” of up to 30 percent shall be granted if permanent copy is included on the shopping center sign that states “City of Merced,” “Welcome to Merced,” or equivalent language, as approved by the Planning Commission.*
 - b. A “Bonus” of up to 60 percent may be granted, pending approval by the Planning Commission, if enhanced design features (such as additional landscaping, water features, decorative artwork, seating areas, etc.) are incorporated into the shopping center.*
 - c. A “Bonus” which would allow a “Changeable Copy Sign” of no more than 50 percent of the total sign area to be incorporated into the shopping center sign; and if the owner agrees to allow the City to advertise the City or community/City sponsored events, at the discretion of the City, on the sign on a continuous and ongoing basis as part of a continuous rotation of advertising or as otherwise defined by the Planning Commission. The Planning Commission may increase the total sign area and/or reduce the amount of City advertising for unique circumstances, such as motion picture/performing arts theaters. Other than those City events above, the Changeable Copy Sign shall not advertise any business, commodity, service, industry or other activity, which is not sold, offered, or conducted on the premises upon which the sign is located or affixed.*
 - d. A “Bonus” consisting of an increased maximum allowable height of a shopping center sign, not to exceed 50 percent of the maximum allowable height spelled out in the Table in Section 17.36.667(E), may be granted,*

pending approval by the Planning Commission, if the criteria for either “a” or “b” above are met.”

Timetable/Next Steps

- E) If the Planning Commission makes a recommendation on the Draft Ordinance on October 9, 2019, a public hearing will be scheduled before the City Council, tentatively scheduled for November 18, 2019. If the Council introduces the Ordinance at that meetings, the 2nd reading and adoption of the Ordinance would be at the next City Council meeting on December 2, 2019, and then the Ordinance would be effective 30 days later or on approximately January 2, 2020.

Environmental Clearance

- F) The 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 (i.e., no further environmental review is required) is being recommended (see Attachment B).

Attachments:

- A) Draft Ordinance
- B) Categorical Exemption
- C) Draft Planning Commission Resolution

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NOTICE OF EXEMPTION

To: _____ Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

From: (Public Agency)
City of Merced
678 West 18th St.
Merced, CA 95340

X County Clerk
County of Merced
2222 M Street
Merced, CA 95340

Project Title: Zoning/Sign Ordinance Amendment #19-04/Environmental Review #19-21

Project Applicant: City of Merced

Project Location (Specific): City of Merced (City wide)

Project Location - City: Merced

Project Location - County: Merced

Description of Nature, Purpose, and Beneficiaries of Project: This application involves changes to the Merced Zoning Ordinance (Chapter 20.62 "Signs" of the Merced Municipal Code) and Sign Ordinance (Chapter 17.36 "Signs" of the Merced Municipal Code), including Article I—Definitions, Article II—General Regulations, Article III—Regulations for North Merced, and Article IV—Regulations for Downtown. This amendment would involve various additions and modifications to the City's requirements for signs, including, but not limited to, new/modified definitions; the allowance of new comprehensive sign programs, including bonus signage amounts and features in exchange for meeting certain criteria and/or providing community benefits, for shopping centers in all areas of the City through the adoption of a conditional use permit; the elimination of the requirement for administrative conditional use permits for various signs in Commercial Office (C-O) areas, monument signs, and decorative wall signs; exempting sign area on monument signs and shopping center signs from the allowable sign area for individual tenants; and the allowance for comprehensive sign programs for historic resources or buildings over 2 stories in the Downtown area.

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: City of Merced

Exempt Status: (check one)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☐ Categorical Exemption. State Type and Section Number: _____
☐ Statutory Exemptions. State Code Number: _____
☒ General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt: The proposed Ordinance has been reviewed by City staff in accordance with the Environmental Checklist Form (Appendix G of the CEQA Guidelines) to determine if there would be any possibility that the proposed ordinance would create any significant environmental impacts, and City staff has determined that the amendment of regulations for signs do not meet any of the thresholds contained in the Checklist that would trigger a significant environmental impact, and thus according to the "general rule exemption" (Section 15061(b)(3) of the CEQA Guidelines), projects which have no potential for causing a significant effect on the environment are not subject to CEQA, no further environmental analysis is required.

Lead Agency: City of Merced

Contact Person: Kim Espinosa

Area Code/Telephone: (209) 385-6858

Signature:  **Date:** August 29, 2019 **Title:** Planning Manager

X Signed by Lead Agency Date Received for Filing at OPR: n/a (If applicable)
Authority Cited: Sections 21083 and 21110. Public Resources Code Reference: Sections 21108, 21152, and 21152.1. Public Resources Code