

## **RESOLUTION NO. 18-**

**A Resolution of the City Council of the City of Hercules Approving Design Review Permit #18-01 for the Master Sign Program for the Safeway Center at the Northeast Corner of the Intersection of San Pablo Avenue and Sycamore Avenue, Subject to Conditions of Approval Contained Herein.**

**WHEREAS**, on September 26, 2017, at a duly held public hearing, the City Council adopted Resolution No. 17-069 which: approved the Safeway Project Initial Study/Addendum (#IS 17-01) to the Hercules New Town Center (HNTC) Environmental Impact Report (State Clearinghouse No. 2007062002, certified 2009), pursuant to the California Environmental Quality Act (CEQA); reconfirmed and readopted the applicable mitigation measures listed therein; and reconfirmed and readopted the Statement of Overriding Considerations for the Hercules New Town Center Project as amended; and

**WHEREAS**, on September 26, 2017, at a duly held public hearing, the City Council approved Resolution No. 17-071, approving Initial/Final Planned Development Plan (PDP) #17-01, Design Review Permit (DRP) #17-02, Conditional Use Permit (CUP) #17-01, and Minor Exception (ME) #17-01 for the Safeway Center Project, located at the northeast corner of the intersection of Sycamore Avenue and San Pablo Avenue; and

**WHEREAS**, on October 2, 2017, at a duly held public hearing, the City Council approved Ordinance No. 503, which included Zoning Text Amendment #17-01 to amend Section 34.400.H of the Zoning Ordinance in order to allow freeway-oriented pylon signs up to 90 feet tall on property zoned General Commercial within 100 feet of Interstate 80; and

**WHEREAS**, the aforementioned Safeway Center project approvals included a set of Conditions of Approval (COAs; Exhibit A to Resolution No. 17-071), including COA #17, requiring that the project applicant submit a Master Sign Program (MSP) for Planning Commission approval of all on-site signage, consistent with the provisions of Section 34.400.R of the Zoning Ordinance; and

**WHEREAS**, the project applicant, McNellis Partners, submitted to the City on April 10, 2018, an application for a Master Sign Program, deemed complete by City staff; and

**WHEREAS**, DRP #18-01 proposes a Master Sign Program for the previously approved Safeway Center at the northeast corner of Sycamore Avenue and San Pablo Avenue (Assessor Parcel Number 404-040-040-2); and

**WHEREAS**, on April 16, 2018, at a duly held public hearing, the Planning Commission passed Resolution 18-06 recommending that City Council adopt Zoning Text Amendment #18-03 to amend the Zoning Ordinance sign regulations; and

**WHEREAS**, on May 8, 2018, at a duly held public hearing, the City Council adopted an Ordinance approving Zoning Text Amendment #18-03 to amend the Zoning Ordinance for clarity and consistency regarding Master Sign Programs, both internally and with the proposed and other potential Master Sign Programs; and

**WHEREAS**, Chapter 42 of the Zoning Ordinance, “Design Review,” defines the purpose of and types of projects, including any exterior construction of on-site signage, subject to review and approval by the Planning Commission, based on findings of fact; and

**WHEREAS**, the City on April 26, 2018, mailed project hearing notices to all property owners within 300 feet of the project site and published a public hearing notice on April 27, 2018, in compliance with Section 40.700 of the Zoning Ordinance; and

**WHEREAS**, on May 8, 2018, the City Council held a duly noticed public hearing to consider Design Review Permit #18-01 and did hear and use its independent judgment to consider all said reports, recommendations, and various verbal and written testimony provided at or prior to the May 8, 2018, public hearing; and

**WHEREAS**, the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work at or visit this development in particular.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hercules, after due study of the proposed Master Sign Program (including drawings, elevations, and written sign guidelines), Conditions of Approval, and staff report, and deliberation and public hearing, determines that the following findings of fact can be made regarding approval of DRP #18-01 so long as the conditions of approval listed further below are complied with in accordance with the approved attached drawings in Exhibit B:

- The approval of the design review plan complies with all pertinent provisions of the Zoning Ordinance, including provisions of Chapter 42, “Design Review,” and applicable zoning and land use regulations, including but not limited to the Hercules General Plan as amended and any specific plan.
- The approval of the design review plan is in the best interests of the public health, safety, and general welfare.
- General site considerations have been designed to provide a desirable environment for the development.
- General architectural considerations, including the character, scale, and quality of the design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and signing, and similar elements have been incorporated in order to ensure the compatibility of this development with its design concept and the character of adjacent buildings.
- General landscape considerations have been considered to insure visual relief, to complement buildings and structures, and to provide an attractive environment for the enjoyment of the public.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of Hercules determines that DRP #18-01 is within the scope of the development programs evaluated in the Hercules New Town Center Environmental Impact Report (EIR) and its addendum (Initial Study/Addendum #17-01), no new significant environmental effects could occur as a result of the

proposed project, no new mitigation measures are required for the proposed project, and the proposed project does not require further environmental review under CEQA.

**WHEREAS**, on April 16, 2018, at a duly held public hearing, the Planning Commission passed Resolution 18-07 recommending that City Council adopt Design Review Permit #DRP 18-01 to approve the proposed Safeway Center Master Sign Program; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of Hercules, hereby approves Design Review Permit #18-01 with the following conditions of approval:

1. Approval of DRP #18-01 is contingent upon adoption of Zoning Text Amendment #18-03, (changes to the Zoning Ordinance sign regulations).
2. Approval of DRP #18-01 shall conform to the Master Sign Program (Exhibit A hereto).
3. All conditions of approval for the project's prior approvals, including Final Planned Development Plan #17-01, Design Review Permit #17-02, Conditional Use Permit #17-01, and Minor Exemption #17-01, continue to be in affect and shall be met.
4. The applicant shall obtain all required building permits prior to construction of on-site signage. The commencement of construction or operations shall constitute acceptance of all of the conditions and obligations imposed by the City for this project. The applicant/grantee by said acceptance waives any challenge as to the validity of these conditions.
5. All persons installing signage shall obtain a Business License from the Finance Department of the City of Hercules.
6. The Master Sign Program shall be attached to the lease agreements for all leasable space within the project.
7. The applicant agrees as a condition of approval of this permit to hold harmless and to defend, at the sole expense of applicant, any action brought against the City based upon approval or use of these permits. The applicant shall indemnify and reimburse the City for any judgement for damages, court costs and attorneys' fees that the City may be required to pay as a result of any such action. The City, at its sole discretion, may participate, which shall not relieve the permittee of its obligations under this condition.
8. All LED (light-emitting diode) signs shall have automatic dimmers to adjust brightness based on ambient light conditions and/or time of day such that signage is lit to appropriate standards, subject to City staff review and approval.

**PASSED AND ADOPTED** by the City Council of the City of Hercules on this 8th day of May, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Chris Kelly, Mayor

ATTEST

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Lori Martin, City Clerk

- Exhibit A: Safeway Hercules — Master Sign Program
- Exhibit B: Findings with Facts

- **Exhibit A: Safeway Center Master Sign Program - Design Review Permit #18-01**

## **Exhibit B: Findings with Facts**

### **Safeway Center Master Sign Program Design Review Permit #18-01**

Section 42.500 of the City of Hercules Zoning Ordinance requires five findings to be made for granting a Design Review Permit; however, for Master Sign Plans for previously approved Planned Development Plans, only the Findings 1, 2, 3, and 4 apply, as follows:

**Finding No. 1:** The approval of the design review plan is in compliance with all provisions of Zoning Ordinance Chapter 42, “Design Review,” other pertinent provisions of the Zoning Ordinance, and applicable zoning and land use regulations, including but not limited to the Hercules General Plan as amended and any specific plan.

**Fact:** Approval of the Master Sign Program for the Safeway Center is consistent with both (a) Section 34.400.R of the Hercules Zoning Ordinance, which provides for Master Sign Programs for groups of commercial buildings, and (b) Condition of Approval #17 of the Safeway Center project (Exhibit A to Resolution No. 17-071), requiring that the project applicant submit a Master Sign Program (MSP) for Planning Commission approval of all on-site signage, consistent with the provisions of Section 34.400.R of the Zoning Ordinance. As stipulated in Section 34.400.R of the Zoning Ordinance, the Safety Center MSP provides all of the required information, including but not limited to: an accurate site plan, with locations of building, parking lots, driveways, and landscaped areas; computation of maximum total sign area, maximum individual sign area, the height of signs, and the number of allowed freestanding signs; an accurate indication of the site location for each sign; color scheme; lettering and graphic style; materials; sign dimensions; and shared usage of pylon sign.

**Finding No. 2:** The approval of the design review plan is in the best interests of the public health, safety, and general welfare.

**Fact:** The Master Sign Plan for the Safeway Center would not impact or be detrimental to the health, safety, welfare, or public interest. The proposed signage includes—and does not preclude—the installation of signage to ensure proper and safe flow of vehicle and pedestrian traffic in and out of and through the project site. All electrical signs must be Underwriters Laboratories (UL) compliant, i.e., certified for electrical safety.

**Finding No. 3:** General site considerations, including site layout, open space, and topography, orientation and location of buildings, vehicular access, circulation and parking, setbacks, height, walls, fences, public safety, and similar elements have been designed to provide a desirable environment for the development.

**Fact:** Given the proximity of the project to two major highways (Interstate 80 and Highway 4) and two major arterial streets (San Pablo Avenue and Sycamore

Avenue), and given the relative elevation of the project site to those thoroughfares, the Master Sign Plan for the Safeway Center appropriately includes a freeway-oriented pylon sign and two monument signs properly situated and designed to be highly visible to passing motorists without obscuring views critical for safety. Tenant identification signs are also appropriately located and scaled on buildings to make businesses readily identifiable to potential customers and other visitors.

**Finding No. 4:** General architectural considerations, including the character, scale, and quality of the design, the architectural relationship with the site and other buildings, building materials and colors, screening of exterior appurtenances, exterior lighting and signing, and similar elements have been incorporated in order to insure the compatibility of this development with its design concept and the character of adjacent buildings.

**Fact:** The Master Sign Plan for the Safeway Center designates sign areas for each individual building based on each building's key architectural elements, ensuring signage is appropriately scaled and aligned for each building. Signs cannot extend above the building fascia. The pylon and monument signs incorporate brick veneer to match the façade material approved for the commercial buildings. Signs must be built of rust-proof materials and, where applicable, painted with highest quality, smooth finish polyurethane paint. All electrical lighting must be UL certified and meet all applicable building code standards, with no visible light leaks and all electrical devices, raceways, conduit, power supplies, and fasteners concealed. The Master Sign Program also prohibits animated, inflated, tethered, and other lower quality, temporary signs that can contribute to visual clutter and distraction.

**Finding No. 5:** General landscape considerations, including the location, type, size, color, texture, and coverage of plant materials at the time of planting and after a 5-year growth period, provision for irrigation, maintenance and protection of landscaped areas and similar elements have been considered to insure visual relief, to complement buildings and structures, and to provide an attractive environment for the enjoyment of the public.

**Fact:** Master Sign Programs do not include or affect the project landscaping, which was previously approved by the City Council on September 26, 2017, through Resolution No. 17-071, which approved Initial/Final Planned Development Plan (PDP) #17-01 and Design Review Permit (DRP) #17-02 for the Safeway Center.