



## PLANNING COMMISSION STAFF REPORT

**MEETING DATE:** April 16, 2018

**TO:** Members of the Planning Commission

**SUBMITTED BY:** Holly Smyth, AICP, Planning Director  
Robert Reber, AICP, Adjunct Planner

**SUBJECT:** Zoning Text Amendment No. 18-03 (ZTA #18-03) to update the Hercules Zoning Ordinance, Chapter 34, Sign Regulations, and Design Review Permit No. 18-01 (DRP #18-01), Master Sign Program for the approved Safeway Shopping Center to be constructed at the northeast corner of the intersection of San Pablo Avenue and Sycamore Avenue (Assessor's Parcel Number 404-040-040-2).

**APPLICANT:** Mike Powers, representing McNellis Partners

### 1. RECOMMENDATION:

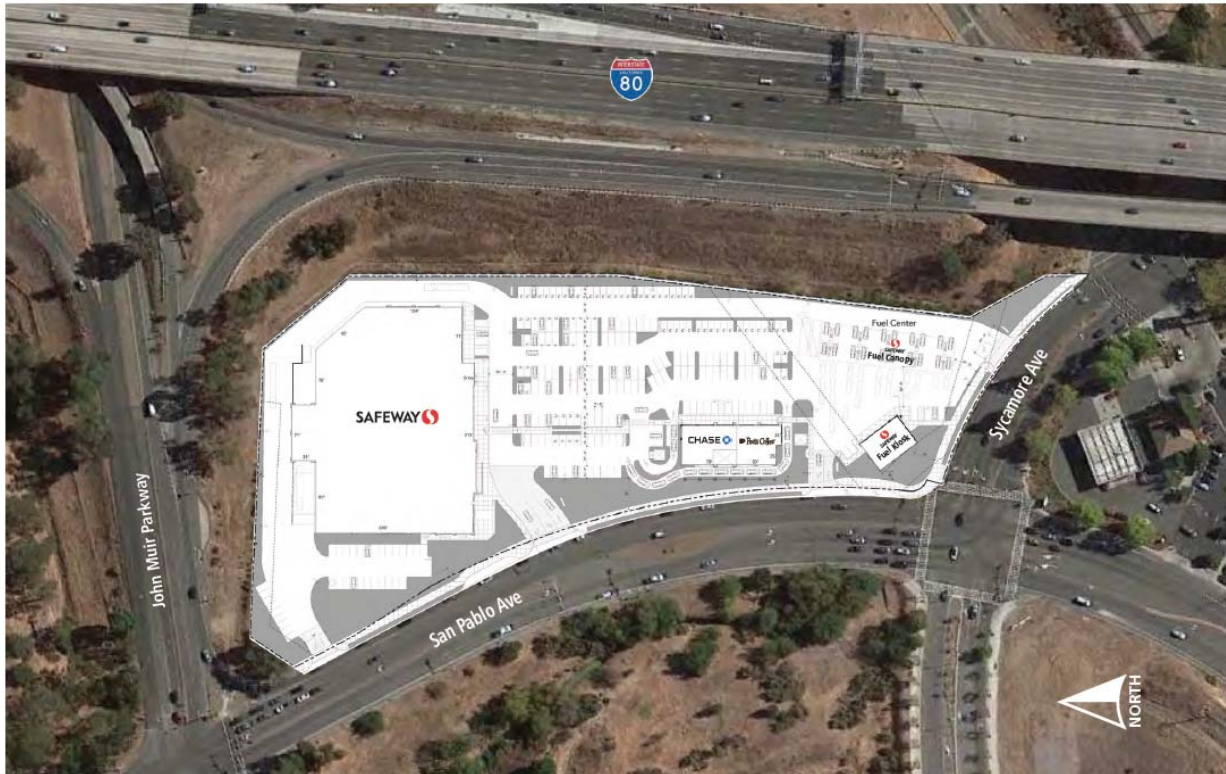
- a. Request City staff present the staff report.
- b. Open, conduct, and close the public hearing to receive testimony.
- c. Request clarification from staff and/or the applicant's representative(s) on issues related to Zoning Text Amendment No. 18-03 and Design Review Permit No. 18-01.
- d. Adopt resolution recommending that City Council approve ZTA #18-03.
- e. Adopt resolution recommending that City Council approve DRP #18-01 for the Safeway Center Master Sign Program.

### 2. BACKGROUND:

At its regular meeting on September 26, 2017, the City of Hercules City Council approved a set of resolutions for a proposed Safeway Center at the northeast corner of the intersection of San Pablo Avenue and Sycamore Avenue on a 6.75-acre site within the City of Hercules (see Figure 1 below for Project Vicinity Map). The set of project approvals allow the construction of a shopping center with a 57,100-sq.-ft. Safeway grocery store, a 20-pump fueling center, a 2,500-sq.-ft. kiosk/mini-mart, a 6,000-sq.-ft. pad with two drive-thrus to accommodate a bank and a coffee shop, and sign ordinance modifications to allow for up to 90-foot tall pylon signs in General Commercial (CG) zone districts within 100 feet of Interstate 80. Included in the project's Conditions of Approval is a requirement that the applicant "submit a Master Sign Program (MSP) for Planning Commission approval of all signage for the site" (City Council Resolution 17-071, Condition of Approval No. 17, Signage). On April 10, 2018, Mike Powers of McNellis Partners, the property owner and project developer, submitted an application for a Design Review Permit to approve a comprehensive Master Sign Program for the Safeway

Center (see Attachment C), construction of which is anticipated to begin in early 2019. The Master Sign Program includes a freeway-oriented pylon sign, two fuel pricing monument signs, and retail tenant signs. Because the project conditions of approval also require that the fuel center include signs to direct vehicles to the fuel pumps in a one-way directional flow (City Council Resolution 17-071, Condition of Approval No. 41, Fuel Center), the Master Sign Program shows “Do Not Enter—Exit Only” signage along the exit bollards at each fuel aisle of the fueling station.

**Figure 1 – Safeway Center Site Plan & Vicinity Map**



### 3. DISCUSSION

#### **Master Sign Program for Safeway Center (Applicant's Request)**

A Master Sign Program (MSP) is used to create standard sign design guidelines for projects with multiple buildings or tenants, ensuring continuity of quality and aesthetics throughout the project for the mutual benefit of all owners and tenants. The intent of the Safeway Center MSP is to encourage high quality and unique signage for identifying individual businesses while still complementing and enhancing the overall appearance of the previously approved site design and architecture.

Once the City approves an MSP, tenants receive approval for their individual signs at staff level instead of having to go through the Design Review public hearing process each time. Approval of a Master Sign Program does not waive the permit requirements for individual signs. The Planning Director can issue individual sign permits subject to the provisions of an approved MSP. Additionally, prior to the issuance of a building permit, the final location of any monument signs shall be coordinated with the Director of Public Works to ensure unobstructed traffic visibility and substantial conformity with the approved MSP. Signs shall also be placed within the shopping center to direct delivery trucks to the loading dock areas and help traffic maneuver and park properly within the project site.

Chapter 34, "Sign Regulations," of the Zoning Ordinance, subsection 34.400.R requires Master Sign Programs for buildings or groupings of buildings containing six (6) or more business or office uses. Among other required information, Master Sign Programs must include:

- An accurate plot plan of the lot, including location of buildings, parking lots, driveways, and landscaped areas on the lot;
- Computation of the maximum total sign area, the maximum area for individual signs, the height of signs, and the number of freestanding signs allowed on the lot included in the plan;
- An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not;
- Color scheme;
- Lettering or graphic style;
- Materials;
- Sign dimensions;
- Shared usage of pylon signs.

Table 1 below lists proposed signs included in the Safeway Center MSP, and compares them to the City's standard sign regulations (Chapter 34 of the Zoning Ordinance).

**Table 1: Individual signs allowed under proposed Master Sign Program\***

Sign Type	Number of Signs	Size Limits	Size	City Standard (per Zoning Ordinance)	Notes
Pylon Sign	1	85 ft. tall	<b>442 sf per side</b>	90 ft. tall; 250 sf max.; General Commercial zones within 100 ft. of I-80	Double-sided; Includes approximately 15 sf of LED changeable copy per side for real-time fuel pricing
Major Sign (Safeway)	6	1 sf of sign/1 linear ft. of tenant leased width, per elevation/side (not to exceed 85% of designated sign area)	37–97 sf	100 sf max.	Combination of halo- and face-illumination
Junior 1 Sign (Chase Bank)	4	1 sf of sign/1 linear ft. of tenant leased width, per elevation/side (not to exceed 85% of designated sign area)	Approx. 49–97 sf	100 sf max.	Halo-illuminated letters; Face-illuminated logo
Junior 2 Sign (Peet's Coffee)	3	1 sf of sign/1 linear ft. of tenant leased width, per elevation/side (not to exceed 85% of designated sign area)	Approx. 32 sf	100 sf max.	Face-illuminated letters on non-illuminated backer panel
Junior 1 Drive-Thru Clearance Bar & Canopy (Chase Bank)	1		Approx. 9 sf	None defined	
Junior 2 Drive-Thru Directionals (Peet's Coffee)	4		Approx. 2 sf each	None defined	Double-sided; Stand-alone/ground-mounted
Fuel Canopy Sign	4	1 sf of sign/1 linear ft. of tenant leased width, per elevation/side (not to exceed <b>85%</b> of designated sign area)	17 sf	<15% of canopy fascia; 1 sign per side	Face-illuminated
Fuel Kiosk Sign	4	1 sf of sign/1 linear ft. of tenant leased width, per elevation/side (not to exceed 85% of designated sign area)	17 sf	100 sf max	Face-illuminated
Fuel Monument Sign	2	<b>9 ft. tall</b>	<b>41 sf</b>	6 ft. tall; 32 sf max; 1 per 600 ft. of lot frontage	Double-sided; Each side includes approx. 6 sf of LED changeable copy for real-time fuel pricing
Temporary Construction Signs	<b>4</b>	<b>Max. size 32 sf</b> ; Max. height: 8 ft. Min. setback: 15 from property line; 300 ft. from other temporary signs		1 sign; 24 sf max	

*\*Items in bold red indicate exceedance of City Standard without approval of an MSP.*

The proposed Safeway Center MSP expressly forbids:

- Signs using flashers, scintillating/chasing bulbs, or moving elements;
- Blimps, balloons, or other tethered aerial devices;
- Painted signs, including advertising painted on walls;
- Signs extending above building fascia;
- “Box” signs;
- Changeable letter boards;
- LED screens with changeable graphics/copy on buildings or visible through glazing;
- A-frame signs.

Though not expressly covered in the proposed Master Sign Programs, window signs at the Shopping Center would be subject to Section 34.500, “Signs Not Requiring a Permit,” which stipulates (34.500.L) that “[w]indow signs are allowed provided that they are placed on the inside of the window, and occupy no more than 25% of the glassed area of all windows, and [are] at least 3 feet from the window frame of an exterior window and the majority of the interior is visible from the outside of the building.”

In cases not covered by the MSP, the prevailing criteria of the City of Hercules Municipal Code would prevail.

### **Zoning Text Amendment #18-01 (Staff Recommendations to Amend Chapter 34 of the Zoning Ordinance, “Sign Regulations”)**

#### ***Master Sign Programs’ Consistency with Zoning Ordinance***

As indicated in Table 1 below, the Safeway Center MSP includes several design specifications that exceed the standard sign regulations of the Zoning Ordinance. These exceptions include:

- The 442 sf of signage on the pylon sign, which exceeds the standard maximum of 250 sf of sign area for structures over 30,000 sf in floor area (Zoning Ordinance, Section 34.400.D);
- The 9-ft height and 41 sf of sign area of the two monument fuel signs, which exceeds the standard limits of 6-ft height and 32 sf sign area for monument signs (Zoning Ordinance, Section 34.400.G);
- The fuel center canopy signs up to 85% of each canopy side of canopy fascia, which exceeds the standard limit of signage covering up to 15% of canopy fascia (Zoning Ordinance, Section 34.400.Q);
- The four proposed temporary construction signs up to 32 sf in sign area each, which exceeds the standard limit of one construction sign of 24 sf in sign area per project (Zoning Ordinance, Section 34.500.C).

Exceptions such as these can sometimes be granted through approval of either minor exceptions (per Chapter 45 of the Zoning Ordinance) or variances (per Chapter 51 of the Zoning Ordinance). However, the Zoning Ordinance’s “Binding Effect” provision for Master Sign Programs states, “In case of any conflict between the provisions of such a [Master Sign] plan with any provisions herein, this Section [i.e., the Zoning Ordinance sign regulations] shall prevail.” (Zoning Ordinance, Section 34.400.R.8). To better resolve potential conflict between provisions of this and other MSPs and the Zoning Ordinance, staff recommends the changes listed below, as the public review process required for MSPs can better achieve nuanced, high-quality, contextually appropriate signage, rather than strict adherence to Zoning Ordinance limitations:

- Clarify that MSPs require Planning Commission approval;
- Require that MSPs substantially (but not necessarily completely) conform to the Zoning Ordinance; and
- Allow certain exceptions to standard signage regulations—including maximum allowed signage, monument sign size, and fuel canopy signs—through approval of MSPs.

### **Zoning Ordinance Consistency with First Amendment Protections**

Though not expressly related to the proposed MSP for the Safeway Center, staff recommends—given recent case law—certain other revisions to the Zoning Ordinance’s Sign Regulations. In *Reed vs. Town of Gilbert*, 576 US (2015), the U.S. Supreme Court clarified when municipalities may impose content-based restrictions on signage. The case also clarified the level of constitutional scrutiny that should be applied to content-based restrictions on speech. In light of the Court’s decision, staff recommends making these additional changes to the Zoning Ordinance:

- Delete requirements specific to religious institution signs;
- Remove content-specific limitation on changeable copy signs;
- Delete provisions specific to advertising messages incorporated into signs;
- Eliminate content-specific bulletin board limitations;
- Delete fast food, automobile, and other content-specific exceptions for banners.

## **4. ENVIRONMENTAL DETERMINATION**

The Zoning Ordinance amendments are Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines. The Design Review Permit/Master Sign Program is within the scope of the development programs evaluated in the Hercules New Town Center Environmental Impact Report (State Clearinghouse No. 2007062002, certified 2009) and its addendum (Initial Study/Addendum #17-01), which the City Council approved on September 26, 2017, at a duly held public hearing, through adoption of Resolution No. 17-069, which also reconfirmed and readopted the applicable mitigation measures and the Statement of Overriding Considerations for the

Hercules New Town Center Project, as amended. 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.

## **5. CONCLUSIONS / RECOMMENDATIONS**

The Safeway Center project will advance goals, objectives, policies, and programs of the Hercules General Plan by expanding and enhancing commercial opportunities and services in the central Hercules area; the project also responds to the current market demand for those services as well as providing community, pedestrian, and open space amenities. The proposed Master Sign Program supports those goals of commercial success by specifying a comprehensive, cohesive, and consistent approach for the shopping center collectively and its tenants individually to identify and advertise their businesses to potential patrons. The proposed Zoning Ordinance amendments support this and future Master Sign Programs by eliminating potential confusion and conflict between approved MSPs and the Zoning Ordinance, and by helping ensure legally appropriate, content-neutral review of signage.

## **6. ATTACHMENTS**

- Attachment 1 – Draft Resolution recommending City Council adopt Zoning Text Amendment No. 18-03
- Attachment 2 – Draft Resolution recommending City Council approve Design Review Permit No. 18-01, Master Sign Program for Safeway Hercules Center, with Conditions of Approval
- Attachment 3 – Master Sign Program for Safeway Hercules Center

**Attachment 1**

**Draft Resolution recommending City Council adopt Zoning Text Amendment No. 18-03**



**Attachment 2**

**Draft Resolution recommending City Council approve Design Review Permit No. 18-01,  
Master Sign Program for Safeway Hercules Center, with Conditions of Approval**

### **Attachment 3**

#### **Master Sign Program for Safeway Hercules Center**

**PLANNING COMMISSION RESOLUTION NO. 18-06  
ZONING TEXT AMENDMENT #18-03  
SIGN ORDINANCE ADMENDMENTS**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERCULES RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE APPROVING ZONING TEXT AMENDMENT #18-03 TO AMEND CHAPTER 34 OF THE CITY'S ZONING ORDINANCE RELATED TO MASTER SIGN PROGRAMS AND CERTAIN CONTENT-SPECIFIC REQUIREMENTS AND FINDING THAT THESE CHANGES ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER SECTION 15061(B)(3) OF THE CEQA GUIDELINES.**

**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**, 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**, for clarity and consistency, both internally and with the proposed and other potential Master Sign Programs, City staff recommend certain revisions to the existing Zoning Ordinance sign regulations; and

**WHEREAS**, City staff recommend additional concurrent revisions to the existing Zoning Ordinance sign regulations for consistency with legal precedence, especially in consideration of the U.S. Supreme Court decision in *Reed vs. Town of Gilbert, Arizona* (135 S. Court 2218 – 2015), which clarified when municipalities may impose content-based restrictions on signage; and

**WHEREAS**, Section 52.400 of the City of Hercules Zoning Ordinance allows for amendments of the Zoning Ordinance whenever the City Council determines that the proposed amendment is: consistent with the General Plan; would not be detrimental to the health, safety, welfare, and public interest of the City; and is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance; and

**WHEREAS**, on April 16, 2018, the Planning Commission held a duly noticed public hearing to consider these amendments and did hear and use its independent judgment to consider all said reports, recommendations, and testimony hereinabove set forth.

**NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF HERCULES DOES HEREBY RESOLVE AS FOLLOWS:**

After due study, deliberation, and public hearing for the proposed Zoning Text Amendment #18-03, in accordance with Section 52.400 of the Zoning Ordinance of the Hercules Municipal Code, the Planning Commission finds that ZTA #18-03 is consistent with the General Plan, would not be detrimental to the health, safety, welfare, and public interest of the City, and is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance.

**SECTION 1. ENVIRONMENTAL FINDING**

**Compliance with California Environmental Quality Act ("CEQA"):** The Planning Commission finds that the Zoning Ordinance amendments are Categorically Exempt from CEQA pursuant to Section 15061(b)(3) (the "general rule exemption") as it can be seen with certainty that there is no possibility the project will have a significant effect on the environment and thus is not subject to CEQA.

**SECTION 2. AMENDMENTS**

The Planning Commission recommends that the City Council amend the Hercules Municipal Code and its Zoning Ordinance by modifying Chapter 34, Sign Regulations, of the Hercules Zoning Ordinance as noted by the additions and deletions shown in Exhibit A hereto.

**PASSED, AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF HERCULES** on this 16th day of April 2018, by the following votes:

**AYES:**            **Bailey, Galieva, Morrison, Rubio, Tolley**

**NOES:**

**ABSENT:**

**ABSTAIN:**

  
\_\_\_\_\_  
Dion Bailey, Chairperson

**ATTEST:**

  
\_\_\_\_\_  
Holly P. Smyth, Planning Director & Secretary

Exhibit A – Zoning Text Amendment for Sign Regulations (#ZTA 18-03)

Exhibit B – Findings with Facts

## Exhibit A

### **Zoning Text Amendments for Chapter 34, "Sign Regulations" (ZTA #18-03)**

#### **34.100 PURPOSE AND APPLICABILITY**

The purpose of this Chapter is to:

- A. Provide for the orderly construction, location, placement, size and maintenance of signs, outdoor advertising structures, and displays of any character, and to safeguard the general public from the hazards caused by dangerously and improperly located and maintained signs.
- B. Promote and protect the public health, safety and welfare by regulating outdoor signs of all types. The specific goals are to protect property values; enhance and protect the physical appearance of the community; to reduce sign or advertising distractions and obstructions, and to ensure that new signs are compatible in design and scale with their surroundings.

Except as otherwise provided in this chapter, it is unlawful for any person to construct, erect, enlarge, alter, or relocate within the city any sign as defined in this chapter, without first obtaining a sign permit for a sign or planned sign program, subject to design review approval, and a building permit.

#### **34.101 GENERAL PROVISIONS**

#### **34.102 DIRECTOR APPROVAL REQUIRED**

The Director of Community Development is authorized to approve, conditionally approve, or deny Sign Permits and Sign Programs, except where Planning Commission action is required, or when a referral to the Planning Commission is made in accordance with applicable sections of the Zoning Ordinance. Any application for a Sign Permit or Sign Program approval requiring action by the Director shall be acted upon within 30 days of submittal.

#### **34.103 PLANNING COMMISSION APPROVAL REQUIRED**

The Planning Commission shall hold a public hearing as specified in the Zoning Ordinance, review the application based on the criteria of this chapter, and take action under the following circumstances:

- A. The sign(s) does not conform to an established design policy adopted by the Planning Commission and/or City Council in accordance with this section.
- B. The sign is a freeway-oriented, freestanding pylon sign.
- C. The approval of ~~Sign Permit or~~ Master Sign Programs ~~or requires approval of a~~ Sign Variances.

### **34.200      LEGAL CONFORMING SIGNS**

Any sign that legally exists as of the effective date of this ordinance shall be considered a legal conforming sign.

- A. Any legal conforming sign may be altered to reflect a change in use or occupancy advertised on the sign, provided that sign has the same fixtures, similar materials, similar colors, and similarly styled lettering and provided the sign face is not enlarged as determined by the Community Development Director.
- B. New signage may be proposed for a site that contains legal conforming signage, provided that all new signage is in compliance with this chapter. The Planning Commission may approve waivers to signage for a site that contains legal conforming signage, if such waivers are consistent with this chapter. Such waivers may be made only if the signage plan for the entire site furthers the purpose of this chapter by reducing visual clutter or otherwise improves the aesthetic appearance of the signage on the site by bringing the overall site into closer compliance with the requirements of this chapter. A legally installed sign which does not comply with this chapter may continue to be used and ordinary maintenance and repairs may be made to the legally conforming sign provided the structure is not moved, enlarged, or structurally altered. A legal conforming sign may not be replaced with one which is nonconforming.

### **34.204      TERMINATION OF BUSINESS/REMOVAL OF SIGN**

Any sign face that identifies or advertises a business must be removed within 30 days after the termination of that business from that site. After a period of ninety (90) days of the termination of the business if the sign is not reused by another business occupying the same site, all mountings, brackets, poles, sign faces and other signage material must be removed.

### **34.205      NOTICE, REMOVAL, LIENS, AND SINKING FUND**

- A. Notice and Removal. The Chief Building Official shall remove or cause to be removed any abandoned, dangerous, defective, illegal, prohibited, not maintained, or nonconforming sign subject to removal under the provisions of this chapter, which has not been removed within the time period specified in this chapter, or any other sign maintained in violation of the provisions of this chapter. The Chief Building Official shall prepare a notice which shall describe the sign and specify the violation involved and shall state that if the sign is not removed or the violation is not corrected within 30 days, the sign shall be removed in accordance with the provisions of this section.

For signs described under provisions of this chapter, the notice shall be mailed or given to the occupant of the property or other employee or, the owner of the sign, or representative upon

which the sign is located. If known, the notice may also be mailed or delivered to the owner of the sign and the occupant of the property.

- B. Emergency Removal. Notwithstanding the above provisions of this section, in cases of emergency, the Chief Building Official may cause the immediate removal of a hazardous, dangerous or defective sign, without notice.
- C. Cost of Lien. Any sign removed by the Chief Building Official pursuant to the provisions of this section shall become the property of the City of Hercules, and may be disposed of in any manner deemed appropriate by the City. The cost of removal of the sign shall be considered a debt to the City by the owner of the sign and owner of the property, and may be recovered by the City by a lien against the property or any other remedy prescribed by law.
- D. Sinking Fund. The project sponsor of a proposed sign shall be required to provide proof of the establishment of a sinking fund to cover the cost of removing the sign if it is abandoned. The word "abandoned" shall mean a sign that has not been operational for a consecutive ninety (90) day period, except where non-operation is the result of maintenance or renovation activity pursuant to valid city permits. The sinking fund shall be established within a two-year period, at a financial institution approved by the city's Finance Department. The sinking fund payment shall be determined by the Finance Director and shall be adequate to defray expenses associated with the removal of the sign. The minimum amount for a sinking fund for any type of sign shall be three-hundred dollars (\$300.00). The maximum amount for a sinking fund for a sign shall be three-thousand dollars (\$3,000.00)

#### **34.206            LIABILITY FOR DAMAGES**

The provisions of this chapter shall not be construed as relieving or limiting in any way the responsibility or liability of any person erecting or owning any sign, for personal injury or property damage resulting from the placement of such sign, or resulting from the negligence or willful acts of such person, its agents, employees, or workmen, in the construction, maintenance, repair, or removal of any sign erected in accordance with a permit issued under this chapter; nor shall it be construed as imposing upon the City or its officers or employees any responsibility or liability by reason of the approval of any signs, materials, or devices under the provisions of this chapter.

#### **34.207            ENFORCEMENT**

- A. Permit Revocation. The Planning Commission is authorized and empowered to revoke any sign permit issued by the Community Development Director upon failure of the holder thereof to comply with any provisions of this chapter. The City Council is authorized and empowered to revoke any sign permit issued by the Planning Commission upon failure of the holder thereof to comply with any provisions of this chapter.
- B. Public Nuisance. In the event any person should erect, alter, relocate or maintain a sign in violation of the provisions of this chapter, the same is declared a public nuisance and, in addition to any other remedies available, including but not limited to administrative citations

and civil penalties, the City Attorney is authorized to bring and prosecute an action in a court of competent jurisdiction to enjoin such person from continuing such violation.

### **34.208 CALCULATION OF SIZE OF SIGN, SIGN AREA, AND HEIGHT**

- A. Within or on Structures. When the graphic representation of the sign occurs on a sign board, the size of the sign shall be calculated by the square footage of the sign board. For illuminated signs, all portions of the sign which are illuminated shall be included in the square footage. In other cases where lettering is attached to a structure and no sign board is utilized, the square footage of the sign shall be calculated by drawing a rectangle around all portions of the lettering; the square footage of the sign shall be the area of the rectangle.
- B. The sign area of wall-mounted and freestanding pylon and ground-mounted monument type signs shall be calculated as follows:
  - 1. The area of a wall sign comprised of individual channel-type letters, numerals, symbols, or other similar components painted on or attached flat against the wall of a building, where such individual components are without integrated background definitions and are not within a circumscribed frame area, the total area of the sign shall be measured by the area enclosed by four (4) vertical and horizontal straight lines containing each word or symbol.
  - 2. Where a freestanding, monument, or pylon-supported sign has two (2) faces, the area of both faces shall be included in determining the area of the sign. Sign height shall be measured as the vertical distance from grade adjacent to the sign footing, to the top of the sign, including the support structure and any design elements.
- C. The regulations and limitations of this Section are intended to be maximum dimensions permitted. The Community Development Director or Planning Commission may require a sign or sign program be reduced to less than the maximum area or height allowable if such a requirement is found to be necessary to comply with the purposes of this chapter.

### **34.300 DISTRICT SIGN REGULATIONS**

The following subsections set forth sign regulations according to zoning district classifications. Signage within a specific zoning district shall conform to the sign requirements for that zoning district.

#### **34.301 RESIDENTIAL DISTRICT SIGN REGULATIONS**

The maximum area, height, and location of signs allowed in residential districts and for residential uses shall be as follows:

- 1. One nameplate not to exceed 2 square feet in area indicating the name of the occupant of a single family dwelling. The nameplate shall be located not closer than 10 feet to any property line, and shall not exceed 6 feet in height.



2. One nameplate not to exceed one square foot in area pertaining to a home occupation. Such nameplate shall be non-illuminated and shall be located flat against the wall of the dwelling.
3. One identification sign pertaining to a multi-family dwelling with an area not to exceed 2 square feet for each dwelling unit or 20 square feet, whichever is less. The sign shall be located on the site of the multi-family dwelling, shall not be located in or face into any interior side yard or any rear yard, and if attached to a building shall not project more than 6 inches into a required front yard or a required side yard adjoining a street. A detached sign located not closer than 5 feet to any portion of a building, or to any property line adjoining a street, shall be located not closer than 20 feet to any other property line and shall not exceed 4 feet in height.
4. Identification signs pertaining to a conditional use with an aggregate area not to exceed one square foot for each 8 feet of frontage of the site. Such signs shall be located on the site of the conditional use, shall not be located in or face into any interior side yard or any rear yard, and if attached to a building shall not project more than 6 inches into a required front yard or a required side yard adjoining a street. Detached signs located in any front yard or any side yard adjoining a street shall be located not closer than 5 feet to any portion of a building, and shall not exceed 6 feet in height.
5. No sign attached to a building shall project above the eave line or parapet line. No sign shall have any moving parts or be constructed of any reflective material. No illuminated sign shall be directly lighted, or flash on or off, but may be indirectly lighted or may have semi-direct or diffused lighting.

### **34.302 NON-RESIDENTIAL DISTRICTS SIGN REGULATIONS**

The non-residential zoning districts include the following:

- A. All commercial districts including the General Commercial, Community Commercial, Recreational Commercial, and the Commercial Public Mixed Use District.
- B. All industrial districts including the Planned Commercial Industrial Mixed-Use District and the Planned Office/Research and Development District.
  1. All non-residential zoning district signs are required to be calculated with the following formula, unless stated otherwise
  2. Wall-Mounted Signs: 1 square foot of sign face for every lineal foot of storefront space leased, owned or rented by the business tenant.
  3. Ground-Mounted Monument Sign: 1 square foot of sign face for every 4 lineal feet of street frontage. Maximum height: 6 Feet.
- C. The Commercial-Residential and the Industrial-Residential Mixed Use Districts shall comply with the following:

1. Live Work-Restricted Use Signs: Only non-illuminated blade, awning, canopy or wall-mounted signs are permitted. 1 square foot for every 10 lineal feet of building storefront space leased, owned or rented by the business tenant.
  2. Live Work-Limited Use Signs: Only non-illuminated blade, awning, canopy or wall-mounted signs are permitted. 1 square foot of sign for every 8 lineal feet of building storefront space leased, owned or rented by the business tenant.
  3. Live Work-Open Use Signs: Only non-illuminated blade, awning, canopy or wall-mounted signs are permitted. 1 square foot of sign for every 6 lineal feet of building storefront space leased, owned or rented by the business tenant.
  4. Mixed Use Signs: Only non-illuminated blade, awning, canopy or wall-mounted signs are permitted. 1 square foot of sign for every 5 lineal feet of building storefront space leased, owned or rented by the business tenant.
- D. Only businesses within the boundaries of the property shall be permitted to advertise on any freestanding pylon, ground-mounted monument or wall-mounted sign.
- E. No sign attached to a building shall project above the eave line or parapet line. No illuminated sign shall be directly lighted, or flash on or off, but may be indirectly lighted or may have semi-direct or diffused lighting.

#### **34.400 SIGNS SUBJECT TO REVIEW**

The following signs, as defined, require review by the Community Development Director in accordance with the provisions of this chapter. Signs associated with projects subject to design review permits shall be reviewed as part of that process; however, such signs also require a sign permit from the Community Development Director. The Community Development Director may not waive any provisions of this chapter. Signs proposed for properties within the Central Hercules Plan shall be subject to the provisions of the Central Hercules Plan Regulating Code, as well as the provisions of this chapter.

- A. Permits for signs subject to review under Section 34.301 and 34.302 shall be acted upon within thirty (30) days of the submission of a complete Sign Permit application. Applications for sign permits must contain a scale drawing indicating the dimensions, materials, coloring, graphic content, lighting source, mounting hardware and site location. In addition, such application shall include photographs of signs found on properties located on each side of the structure.
- B. The Community Development Director may approve, deny or approve with conditions the any permit application for signs under Sections 34.301 and 34.302 of this chapter.
- C. All reviewing authorities shall review all signs and their locations within a site and placement on a structure in accordance with Sections 34.302 of this chapter.

- D. Except as allowed through an approved Master Sign Program, no individual ~~No~~ sign shall exceed 100 square feet in sign area, except for ~~wall~~ signs on structures greater than 30,000 square feet ~~in floor area~~ which may not exceed 250 square feet in sign area.
- E. **Awning Signs.** An awning sign is a covering which is (or appears to be) made of cloth or canvas that is either permanently attached to a building or can be raised or retracted or fixed to a position against the building when not in use. Awnings on structures in the Central Hercules Plan shall be reviewed in accordance with all provisions of the Central Hercules Plan Regulating Code. The sign face of an awning sign may not exceed 25% of the area of the plane of the awning on which the sign face appears. No material or signage may hang from an awning.
- F. **Marquee Signs.** A marquee is a sign used for the advertisement of a movie or theatrical event. Marquee signs are permitted for theaters only and must be wall signs, subject to the requirements for wall signs.
- G. **Monument Sign.** A monument sign is mounted directly on the ground. Except as allowed through an approved Master Sign Program, the size of the face of a monument sign shall not exceed 32 square feet. ~~The, the~~ maximum height of the sign shall not exceed 6 feet. ~~Only, and only~~ one monument sign per six-hundred feet of lot frontage is permitted.
- H. **Freestanding Pylon Sign.** A freestanding pylon sign is a sign attached to columns erected directly into the ground. Only one freestanding pylon sign per one-thousand feet of lot frontage is permitted. The height of a pylon sign is measured from the top of the sign to the ground.
1. New freestanding pylon signs are prohibited to be constructed in the City of Hercules except where all of the following conditions are met:
    - a. The property on which the pylon sign is to be constructed must be zoned as General Commercial (CG).
    - b. The pylon sign must be constructed on-site and within 100 feet of the Interstate 80 right-of-way or easement.
    - c. The pylon sign must be approved as part of a Master Sign Program and shall be subject to environmental review under the California Environmental Quality Act.
  2. The pylon sign must be for on-site commercial developments intended to serve a market area that extends beyond the City limits of Hercules (as determined by the Planning Commission).
    - a. The sign shall be supported by a minimum of two enclosed supports, located at or near the exterior edge of the sign face, or constructed as a monolith (with no open area between the message area and the ground upon which the sign is located). Signs supported by a single pole shall not be permitted.
    - b. At signs which contain open area below the message area (i.e., between the supports), the height of the open area shall be at least equal to the height of the message area.
    - c. The colors and/or materials of the sign and the supporting structure shall be compatible with the exterior of the shopping center or buildings for which the sign

- provides identification. The design of the freestanding sign should reflect the architectural design of the buildings within the shopping center.
- d. The sign may identify the shopping center or businesses (where a single business is not part of a larger center or development) and the name of the shopping center or business shall be prominently displayed in the sign message area. Individual tenants/owners may be identified on the sign providing the name of the center shall be clearly legible to the "target" audience, as determined by the Planning Commission. The freestanding pylon sign shall be limited to a maximum of three (3) on-site tenants.
  - e. Where the center/business adjoins a public street, the sign and the supporting structure shall be located no less than a distance equal to the maximum sign height from the nearest edge of the public street sidewalk (or curb, if there is no sidewalk), and the sign and supporting structure shall be located no closer than 10 feet from any other property line at the perimeter of the center/business site. This distance shall be measured from the closest point on the property line to the portion of the sign or sign structure that is closest to the property line.
  - f. The maximum height of the sign shall not exceed 90 feet.
  - g. Notwithstanding Section 34.400.N, pylon signs may include a digital display, so long as such digital display occupies no more than twenty five (25) square feet on each sign face.
  - h. As of the effective date of this ordinance, a legally installed freestanding pylon sign may continue to be used and ordinary maintenance and repairs may be made to the legally conforming sign provided the structure is not moved, enlarged, or structurally altered. Existing freestanding pylon signs will not be permitted to be enlarged, expanded, or allowed any additional sign panels to be constructed within their existing sign area. Existing sign panels on legally-constructed and permitted freestanding pylon signs are permitted to be replaced when new businesses replace one or more of the existing on-site businesses shown on existing sign panels.
- I. **Projecting Signs/Blade Signs.** A projecting or blade sign is one which is attached to a wall at an angle. Where a projecting sign projects over a sidewalk, it must clear the ground by at least eight (8) feet. Any use which contains a projecting sign may not contain a freestanding pylon sign. Projecting signs may not be placed above the first story of a structure unless it is advertising a use that occurs above the first floor. In cases where a projecting sign occurs above the first story of a structure, it may not be placed higher than the midpoint of the second story.
- J. **Subdivision Sales Signs, On-Site.** On-site subdivision sales signs shall comply with the following regulations:
- a. A maximum of two advertising signs, with a maximum area of 24 square feet and a maximum height of 6 feet for each sign; or
  - b. A maximum of four directional signs, with a maximum area of 16 square feet and a maximum height of 6 feet for each sign; or
  - c. One sign for each model in the project, with a maximum area of 8 square feet and a maximum height of 4 feet for each sign.

K. Subdivision Sales Signs, Off-Site. Off-site subdivision sales signs shall comply with the following regulations:

- a. The maximum number of signs shall be four per project.
- b. The maximum height shall be 6 feet.
- c. Setbacks shall be provided as follows: 15 feet from property line, 300 feet from other authorized off-site subdivision sales signs, and 100 feet from occupied residential structures.
- d. All sign bases and support structures shall be boxed or enclosed in a decorative base.

L. Wall Signs. A wall sign is one which is applied, painted or affixed flush to the exterior of a structure. No wall sign shall protrude beyond the roof line or cornice structure of a building, and shall not cover windows, doors or architectural detailing of the building to which it is affixed.

M. ~~Religious Institution Sign. A religious institution sign must be for the use of a religious institution, must occur on the same parcel as the religious institution, and may have a changeable copy sign. A religious institution sign shall be either a wall or monument sign in accordance with the requirements for those signs.~~

N. ~~Changeable Copy Signs. Changeable copy signs are prohibited except for religious institutions, bulletin boards, and community signs as approved through a Master Sign Program.~~

O. Directory Signs. A Directory Sign is one which advertises more than one use or establishment. A directory sign may be mounted to the ground, one or more poles, walls, or may project from a wall at an angle. A directory sign may advertise or identify only uses which exist within the same lot or uses which exist in any group of structures which share a common point of access from the public way. Only one directory sign per five-hundred feet of lot frontage is permitted. Directory Signs are permitted only in subsection 1, 2, or 3 below:

1. Community Commercial zoning district along Sycamore Avenue.
2. General Commercial zoning district along San Pablo Avenue.
3. General Commercial zoning district along Willow Avenue.

~~P. Advertising Messages Incorporated Into Approved Signage. Permanent advertising messages or business information (such as signage indicating business hours, signage which indicates which types of bank machine cards are accepted, or other similar message) shall be considered a sign subject to review, unless that message is in a sign not subject to a permit. When reviewing such signage, other signs on the site shall also be considered.~~

~~Q.P.~~ Gasoline Sales Canopy Signs. Except as allowed through an approved Master Sign Program, Gas station canopy signs shall not extend beyond the edges of the canopy and shall comply with one of the two following alternative provisions:

1. No sign shall exceed 15% of the square footage of the side of the canopy upon which it is located. No side shall contain more than one sign.



2. The total area of signs on a gas station canopy shall not exceed 9% of the total square footage of all ~~signs~~ sides of the canopy. No canopy shall have more than two signs located on it. Both signs may be located on the same side of the canopy.

**R.Q.** Master Sign Programs.

1. General Requirements. A Master Sign Program is required when a sign(s) is requested for:
  - a. A building or grouping of buildings which contains six (6) or more business or office uses, or
  - b. Community uses that request more than two identification signs. No permit shall be issued for an individual sign requiring a permit on a site with six (6) or more existing or proposed business spaces unless, and until, a master sign program for the property on which the sign will be erected has been approved by the Design Review Committee.
2. Required Information. A Master Sign Program shall contain the following information:
  - a. An accurate plot plan of the lot, at such a scale as the Planning Division may require.
  - b. Location of buildings, parking lots, driveways and landscaped areas on the lot.
  - c. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot included in the plan.
  - d. An accurate indication of the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not.
  - e. Color scheme.
  - f. Lettering or graphic style.
  - g. Materials.
  - h. Sign dimensions.
  - i. Provisions for leasing information.
3. Window Signs. A Master Sign Program including window signs shall indicate the areas of the windows to be covered by window signs and the general type of the window signs permitted (e.g. paper affixed to window, painted, neon, etched on glass). (See 34.500J for permitted coverage.)
4. Freestanding Pylon Signs. The Master Sign Program shall address shared or common usage of freestanding pylon signs.
5. Other Provisions. Master Sign Programs may contain regulations as the Design Review Committee may reasonably determine are necessary to assure the Program's compliance with the requirements of this Chapter.
6. Procedures. A Master Sign Program shall be a condition of approval of any planned development, design review, use permit or other application required by

the City, and shall be processed prior to installation of any signs. Any sign which conforms to an approved sign program may be approved by the Director of Community Development. Approval of a Master Sign Program does not waive the permit requirements for individual signs.

7. **Amendment.** A Master Sign Program may be amended by filing a new Master Sign Program that substantially conforms to ~~all~~ requirements of this Chapter.
8. **Binding Effect.** After approval of a Master Sign Program, no signs shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same ways as any provision in this Chapter. The Master Sign Program shall be attached to the lease agreements for all leaseable space within the project. In case of any conflict between the provisions of such a plan with any other provisions herein, ~~this Section~~ the provisions of the Master Sign Program shall control.

### 34.500 SIGNS NOT REQUIRING A PERMIT

The following signs are permitted as indicated in the following subsections, and require no permit.

- A. **Bulletin Boards.** One bulletin board not to exceed 20 square feet in area shall be permitted, serving ~~only~~ to identify and announce ~~the on-site services and activities of a park, public or parochial school, library, church, community center or other similar or community facility or institution.~~ The bulletin board shall be located on the site of the community facility or institution, shall be located not closer than 5 feet to any portion of a building, shall be located not closer than 10 feet to any property line adjoining a street, shall be located not closer than 20 feet to any other property line and shall not exceed 6 feet in height.
- B. **On-Site Real Estate Sign.** An on-site real estate sign is a temporary sign advertising the lease or sale of land, space or structure. This type of sign is generally mounted to post structure embedded in the ground with signage attached. Onsite residential signage may not exceed 6 square feet for the primary sign and up to an additional 4 square feet for add-on placards. For all other types of land uses and vacant land, the sign may not exceed 24 square feet. These types of real estate signs shall not be located on City of Hercules rights-of-way, landscaped medians or parkways. On-site Real Estate Signs must be removed within ten days of the sale or lease of the property.
- C. **Off-Site Residential Real Estate Open House/Directional Signs.** An off-site residential real estate sign is a temporary, portable off-site sign within any residential zone intended to provide directional assistance for an “open house” and shall be:
  1. “A-frame” in design. “Stick signs” are strictly prohibited.
  2. Allowed only for residential real estate located within the City of Hercules.

3. Limited to a maximum total of 5 temporary double-sided off-site residential real estate signs per property provided motorist visibility is not obstructed and no more than 4 double-sided signs for different properties shall be at a single intersection.
  4. Limited to 30 inches in height and 6.25 square feet in sign face area as measured on one side.
  5. Signs may be placed on private property only after first obtaining permission from the property owner.
  6. Signs may be placed in the public right-of-way only when immediately adjacent to property lines in such a manner that does not interfere with ADA accessibility or interrupt flow of vehicle or pedestrian traffic nor obstruct vehicular visibility. However, signage is prohibited in the center divider, any landscaped center-median, and/or traffic islands of public streets, bicycle paths or public walking trails. Additionally, signs shall not be placed on fences, utility poles or walls, or attached to traffic lights or light standards.
  7. Signs may be displayed sunrise to sunset on the day of the open house or on broker's touring day(s).
  8. Violations. All signs in violation are subject to seizure by the City of Hercules. (Note: These signs will be removed and stored at the City of Hercules Corporation Yard for a maximum of ten (10) days. After ten (10) days, the City will dispose of the sign if not claimed. Signs may be retrieved by contacting the Public Works Department and waiving the fine for the first violation, paying \$25 for the second violation and paying \$50 for each violation thereafter for retrieval fee per sign.
  9. No balloons or attachments are permitted on the A-frame real estate open house signs.
- D. **Contractor Signs.** A contractor's sign is a temporary sign erected during the construction phase of a project only, not to exceed 24 square feet. Such sign must be removed upon the issuance of a Certificate of Occupancy, where one is required. Contractor Signs may also be used during home improvement or renovation projects that are not subject to a Certificate of Occupancy, but must be removed after the work has been completed.
- E. **Signs for Garage or Yard Sales.** Lawn, yard or garage sale signs are prohibited on any state or city public property or right-of-way, or on utility poles. No sign for garage or yard sales shall be posted more than 24 hours before and after the event. Garage or yard sale signs are limited to a maximum of four (4) square feet.
- F. **Special Events or Notice Signs.** Special Events or Notice Signs are temporary signs, such as banner, pennants, wind socks, posters or flags, displayed on a non-residential property for decorative or festive purposes to announce festivals, elections, or special events. Such signs may not interfere with pedestrian or vehicular traffic. No individual building occupant may utilize the provisions of this section for more than 30 days within a calendar year. Prior to



displaying any Special Event or Notice Sign or Signs, the building occupant shall submit written notification to the Community Development Director of the installation and removal dates.

- G. **Special Signs and Non-Commercial Holiday Decorations.** Non-commercial holiday decorations, signs on products or product containers, public information and safety signs, historic markers, signs required by local, state or federal law, and non-commercial messages placed on lawful signs shall be exempt from the regulations of this chapter.
- H. **Temporary Signs for Special Events.** Temporary signs and banners for promotional or seasonal events of civic, charitable, educational, religious, or service organizations are allowed when displayed on the location of the subject activity. They shall be placed no sooner than 14 days prior to the event and removed no later than seven days after the event. Such signs or banners shall not exceed 32 square feet.
- I. **Warning Signs.** "No trespassing," "no dumping," or other warning signs are allowed that do not exceed 4 square feet per sign.
- J. **Window Signs.** Window signs are allowed provided that they are placed on the inside of the window, and occupy no more than 25% of the glassed area of all windows, and is at least 3 feet from the window frame of an exterior window and the majority of the interior is visible from the outside of the building.
- K. **Household Signs.** Signs that display street numbers, last names and personal names given to residential structures shall not require a permit.

### **34.600        SPECIFIC REGULATIONS FOR TEMPORARY AND MISCELLANEOUS SIGNS**

The following section establishes regulations for the maximum number, location, maximum area, maximum height and/or special regulations for all signs of a temporary nature that are allowed in the City of Hercules.

#### **A. Banners.**

1. Temporary (for a period of not more than 30 days per calendar year) promotional banners ~~including "grand opening", "under new management", and seasonal or other special event advertisements,~~ may be placed on any business, ~~excluding fast food restaurants and automobile and open lot vehicle dealers,~~ a total of 30 days per calendar year. The maximum size of all banners on-site shall not exceed 36 square feet combined. The length of the banner may not exceed 40% of the length of the building elevation on which it is displayed. No more than two banners may be used for any promotion. A banner shall only be affixed to a building, and shall not be placed on or above a roof.
2. ~~Fast food restaurants and automobile and open lot vehicle dealers may display banners year round, in accordance with the following restrictions:~~

- ~~a. Up to two (2) banners, with a maximum aggregate area of 36 square feet, may be displayed.~~
  - ~~b. The banner shall only be attached to and displayed below the eave of the roof line of the subject building.~~
  - ~~c. The length of the banner may not exceed 40% of the length of the building elevation on which it is displayed.~~
- B. Permanent and Seasonal Decorations. Permanent and seasonal ornaments of a decorative nature shall comply with the following regulations:
  - 1. The number of decorations allowed shall be determined at the time of Sign Permit issuance.
  - 2. The decoration shall contain no commercial copy (e.g. business name, product, etc.)
- C. Construction Signs. One “under construction” sign is allowed per construction site. The sign shall not exceed forty (40) square feet in area and ten (10) feet in height. The sign may identify the project developer, project participants, and/or future occupants.
- D. On-Site Directional Signs. Where appurtenant to a permitted or conditionally permitted use, on-site directional signs may be placed subject to the following regulations:
  - 1. Maximum area of a directional sign shall be four square feet.
  - 2. Maximum height shall be five feet.
  - 3. Directional signs shall have no commercial message or copy.
- E. Inflatable Signs. Inflatable balloons, objects or signs are not permitted to be displayed on any commercial or industrial or mixed use zoned building. Temporary seasonal businesses, such as Christmas tree lots may display an inflatable object associated with the holiday for one period *not to exceed 30 days*. Amusement parks and amusement destinations may be permitted to display temporary inflatable balloon objects that do not exceed the height of the project building(s) for a period of not more than 30 days per calendar year. Amusement parks and amusement destinations may display on a temporary basis two inflatable signs or characters, a maximum of 15 feet tall at each major entry to the facility. For the purposes of this subsection, a major entry is an entry from a public road providing direct public access to the site. All inflatables shall be affixed to the ground, and shall not be attached to, or displayed on or above any structure.
- F. Political Campaign Signs. Political Campaign Signs are allowed to be displayed only on prescribed locations identified and adopted through legislation by the City Council.

### **34.700 PROHIBITED SIGNS**

The following signs are prohibited by this Section:

- A. Abandoned signs. Any sign which is unused for more than 90 consecutive days shall be deemed abandoned and shall be removed. Individual tenant signs in multi-tenant shopping centers may remain unused for a longer period provided all advertising copy is

removed and a blank sign face is maintained. For the purposes of this Section, "unused" shall mean the absence of copy or advertising message, or a sign which advertising a business or activity no longer located at the subject site.

- B. Signs that simulate, by virtue of size, shape, color, lettering, or design, a traffic sign or signal, or signs with characters or graphics that interfere with, mislead, or confuse the pedestrian or motorist are prohibited.
- C. Portable signs, sandwich board, "A-frame", or movable freestanding signs, including signs placed on parked vehicles or trailers, except where specifically authorized in the Municipal Code.
- D. Any sign erected in or extending into the public right-of-way, except signs in the commercial, industrial, planned office/research and development zoning districts, and properties in the Central Hercules Plan where mixed commercial-residential land uses are developed and improved, and where the applicant has received an encroachment permit from the Public Works Department, and publicly owned signs for directional purposes.
- E. Any roof-mounted sign that projects above the roof or parapet of a building is prohibited. The Planning Commission shall be authorized to grant approval where the sign is designed as part of the building's architecture, such as a blade sign on a theater façade or a sign integrated into a raised building's parapet.
- F. Any structure that advertises an off-site business or activity, product, or service (such as a billboard) is prohibited with the exception of off-site residential subdivision advertising signs that comply with the regulations established by this Section.
- G. Animated signs that use blinking lights, audible sounds, human or animal generated movements. This restriction does not apply to electronic message signs and time and temperature signs.
- H. Banners, streamers and pennants are prohibited except where specifically authorized by this chapter.
- I. Inflatable balloons, objects or signs are not permitted to be displayed on any commercial or industrial or mixed use zoned building except where specifically authorized by this chapter.

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

### **Sign Regulations Zoning Text Amendment #18-03**

Section 52.400 of the City of Hercules Zoning Ordinance requires all of the following findings to be made for granting an amendment to the Zoning Map or Zoning Ordinance:

**FINDING NO 1:** The proposed amendment is consistent with the General Plan.

**FACT:** Zoning Text Amendment #18-03 is consistent with the General Plan as it will help ensure legally defensible and proper review of comprehensive sign programs to assist in promoting an attractively designed and economically feasible development, as outlined in Objective 9 of the Land Use Element of the Hercules General Plan.

**FINDING NO 2:** The proposed amendment would not be detrimental to the health, safety, welfare, and public interest of the City.

**FACT:** The proposed Zoning Text Amendment #18-03 to amend Chapter 34, "Sign Regulations," would not impact or be detrimental to the health, safety, welfare, or public interest. The sign regulation amendments would help protect certain free speech rights by eliminating several content-based sign regulations. The sign regulation amendments also ensure proper review and implementation of Master Sign Programs, which provide the City discretion through a public hearing process to impose appropriate, legal, and strict restrictions on the location, number, size, design, and other aspects of signs as necessary to minimize impacts on the public health, safety, and welfare.

**FINDING NO. 3:** The proposed amendments are internally consistent and do not conflict with the purposes, regulations, and required findings of the Zoning Ordinance.

**FACT:** The proposed Zoning Text Amendment #18-03 would be internally consistent and would not conflict with the purposes, regulations, and required findings of the Zoning Ordinance, as the amendments clarify and reinforce the Planning Commission's authority to approve Master Sign Programs, provided that each approved Master Sign Program substantially conforms to the requirements of the Zoning Ordinance and that the City make the same findings as required for Design Review Permits, as stipulated in Section 42.500 of the Zoning Ordinance.

## **RESOLUTION NO. 18-07**

**A Resolution of the Planning Commission of the City of Hercules Recommending City Council Approval of Design Review Permit #DRP 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 within 100 feet of Interstate 80 and zoned General Commercial; 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 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 5, 2018, mailed project hearing notices to all property owners within 300 feet of the project site and published a public hearing notice on April 6, 2018, in compliance with Section 40.700 of the Zoning Ordinance; and

**WHEREAS**, on April 16, 2018, the Planning Commission 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 April 16, 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 Planning Commission 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 Planning Commission 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; and



**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Planning Commission of the City of Hercules, hereby recommends the City Council approve 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).
- 1.2. Approval of DRP #18-01 shall conform to the Master Sign Program (Exhibit A hereto).
- 2.3. 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.
- 3.4. 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.
- 4.5. All persons installing signage shall obtain a Business License from the Finance Department of the City of Hercules.
- 5.6. The Master Sign Program shall be attached to the lease agreements for all leasable space within the project.
- 6.7. 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.
- 7.8. 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.

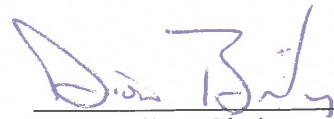
**PASSED AND ADOPTED** by the Planning Commission of the City of Hercules on this sixteenth day of April 2018, by the following vote:

AYES: Bailey, Galieva, Morrison, Rubio, Tolley

NOES:

ABSENT:

ABSTAIN:

  
Dion Bailey, Chairperson

  
Holly Smyth, AICP, Planning Director & Secretary

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

## **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.

