

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #13-10

AGENDA ITEM: 4.1

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: May 8, 2013

PREPARED BY: Kim Espinosa,
Planning Manager

CITY COUNCIL
MEETING DATE: June 3, 2013
(Tentative)

SUBJECT: **Zoning Ordinance Amendment #13-01/Environmental Review #13-06**, initiated by the City of Merced, including amendments to various sections in Chapters 2.20, "Planning Commission," 17.36, "Signs," and 17.54, "Historic Preservation," and Chapter 20.86, "Site Plan and Architectural Approval," of the Merced Municipal Code. This ordinance is intended to shift the duties previously assigned to the Design Review Commission/Historic Preservation Commission to the Planning Commission and City staff for projects within the Downtown area and historic preservation projects. Other changes to the Municipal Code would re-title references within the sign code to the Merced Redevelopment Agency and Redevelopment Areas, which no longer exist, without changing the sign requirements themselves in any manner.
PUBLIC HEARING

ACTION: PLANNING COMMISSION:

Recommendation to City Council

- 1) Environmental Review #13-06 (Categorical Exemption)
- 2) Zoning Ordinance Amendment #13-01

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #13-06 (Categorical Exemption)
- 2) Zoning Ordinance Amendment #13-01

SUMMARY

In May 2012, the City Council gave staff direction to transfer the duties of the Design Review Commission/Historic Preservation Commission (DRC/HPC) to the Planning Commission due to the demise of the City's Redevelopment Agency and the need to reduce staff workloads. City staff has prepared an ordinance that implements those changes for consideration by the Planning Commission and City Council. Because the changes require amendments to the Zoning Code, the Planning Commission must make a recommendation to City Council on the proposed changes. Staff is recommending approval of the proposed ordinance at Attachment A.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval of Categorical Exemption #13-06 and Zoning Ordinance Amendment #13-01 as described in Attachment A (including the adoption of the Resolution at Attachment D).

PROJECT DESCRIPTION

The proposed ordinance (Attachment A) changes would transfer the duties of the Design Review Commission/Historic Preservation Commission to the Planning Commission and City staff. Other changes to the Municipal Code would re-title references within the sign code to the Merced Redevelopment Agency and Redevelopment Areas, which no longer exist, without changing the sign requirements themselves in any manner.

BACKGROUND

On May 7, 2012, the Merced City Council was presented with various options on the future of the Design Review Commission/Historic Preservation Commission (DRC/HPC), given the demise of the Redevelopment Agency and the need to reduce staff workloads. After reviewing the various options (described in Finding G below), the City Council directed staff to proceed with Option C (combining the DRC/HPC functions with the Planning Commission) by a 5-1-1 (5 ayes, 1 no, 1 absent) vote.

FINDINGS/CONSIDERATIONS:

Purpose and Duties of the Design Review/Historic Preservation Commission

- A) Merced Municipal Code Section 20.86 spells out the duties and procedures for the Design Review Commission and Section 17.54 spells out the duties and procedures for the Historic Preservation Commission.

According to Merced Municipal Code Section 20.86.020, the purpose of the Design Review Commission is:

“The purpose of the design review commission is comprehensive site plan and architectural review within redevelopment project areas and within three hundred (300) feet of the boundaries thereof so as to determine compliance with this chapter and to promote the orderly and harmonious growth of the city and the stability of land values and investments and the general welfare; and to help prevent the impairment or depreciation of land values and development by the erection of structures, additions, or alterations thereto without proper attention to siting, or of unsightly, undesirable, or obnoxious appearance; and to prepare for and help to prevent problems arising affecting the community due to the nature of existing and planned uses of land and structures, such as traffic, public safety, public facilities, utilities and services, among others; and to carry out the beneficial objectives contained in redevelopment plans adopted for areas within the city. “

According to Merced Municipal Code Section 20.86.040, the functions of the Design Review Commission are:

“The functions of the design review commission shall be to review the following with respect to all structures, except (1) single-family detached dwellings (and buildings accessory thereto) and (2) projects located in I-R, I-L, and I-H zones which lie within redevelopment project areas or within 300 feet of the exterior boundary of a redevelopment project area...” (Note: The ordinance goes on to describe the review criteria in detail.)

B) According to Merced Municipal Code Section 17.54.040, the powers and duties of the Historic Preservation Commission are to:

"A. Designate historic resources;"

"B. Review applications for, and issue certificates for alteration for construction, alteration, or demolition of designated historic resources; "

"C. Consult with and consider the ideas and recommendations of civic groups, public agencies, and citizens interested in historic preservation; "

"D. View structures, sites and areas which it has reason to believe are worthy of preservation;"

"E. Disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation, and encourage and advise property owners and members of the community generally in the protection, enhancement, perpetuation and use of property designated historic; "

"F. Consider methods other than those provided for in this chapter for encouraging and achieving historical or architectural preservation."

History of the Design Review Commission/Historic Preservation Commission

C) The Design Review Commission (DRC) was formed in 1979 with 7 members and the Historic Preservation Commission (HPC) function was added to the DRC in 1983. (The purpose and duties of each Commission are outlined above.) From 1979 to 2009, the DRC/HPC held meetings twice per month, although the Municipal Code only required one monthly meeting. During that time, the Commission reviewed façade improvements and new construction projects along with new sign proposals, paint permits, and other minor additions. When Planning staff took over the duties for the DRC from Redevelopment staff in 1994, the approvals for signs, paint permits, and minor façade improvements were shifted to staff. The workload for the Commission was, thus, substantially reduced. Due to the large number of cancelled meetings and reductions in City staff, in January 2010, the DRC/HPC meetings were reduced to once per month from twice per month.

2012 Abolishment of Redevelopment Agencies in the State of California

D) In June 2011, the California Legislature approved and the Governor signed two bills (ABX1 26 and ABX1 27), the first dissolved Redevelopment Agencies throughout the State as of October 1, 2011, and the second allowed RDA's to continue to exist if they agreed to annual payments to school districts. Petitions were subsequently filed with the California Supreme Court to overturn those bills on constitutional grounds. On

December 29, 2011, the Court upheld ABX1 26 and extended the deadlines, but overturned ABX1 27. This resulted in all Redevelopment Agencies being abolished as of February 1, 2012.

In January 2012, the Merced City Council took a number of official actions to shut down the City's Redevelopment Agency, but declined to become the Successor Agency, which was to oversee any existing RDA projects, make payments, and dispose of RDA assets. A 3-member governing board made up of County residents was then appointed by the Governor to serve as the successor agency since no other local agency elected to serve in that capacity as allowed under ABX1 26.

Status of Current Commissioners

E) The 7-member Design Review Commission currently has 2 vacancies (Alan Arnold termed out in July 2010 and Catherine Kniazawycz resigned in June 2011), which have not been filled. Two additional members (Walter Lopes and Carol Luhring) termed out in July 2011, but agreed to stay on the Commission until they were replaced. Chairperson Lemen's term expired in July 2012 (he was not eligible for reappointment) and he also elected to stay on until replaced. The terms of Commissioners Dake and Hofmann expire in July 2013 (and neither would be eligible for reappointment). Therefore, as of July 2013, the entire 7-member Commission would need to be replaced if it were to continue.

Application Activity

F) Applications requiring DRC approval have also been down substantially since 2005 resulting in a significant number of cancelled meetings (see below), which also led to the number of meetings being reduced to one per month in January 2010. As it turns out, few meetings were cancelled in 2010, but many 2010 applications (9 of 12) related to the residential façade improvement program administered by the RDA, which no longer exists. Half of the meetings in 2011 were cancelled. The last meeting held by the DRC/HPC was on April 11, 2012. There have been no items for them to review since.

Year	# of Calendared Mtgs	# of Mtgs Held	% of Mtgs Cancelled	# of DRC Applications	# of Staff Approvals
2005	23	17	26%	16	25
2006	23	13	43%	11	32
2007	24	8	67%	6	25
2008	24	9	62%	4	19
2009	24	6	75%	4	21
2010	12	11	8%	12	27
2011	12	6	50%	3	6
2012	12	3	75%	2	2
2013	5 (partial year)	0	100%	0	1

Options Considered by City Council

- G) On May 7, 2012, the City Council considered the following options regarding the future of the DRC/HPC and elected to go with Option C, folding the duties into the Planning Commission:
- A. Disband the DRC, and give design review functions to City staff and Historic Preservation functions to the Planning Commission; or,
 - B. Disband the DRC, but retain the Commission as the Historic Preservation Commission (only holding meetings when historic preservation applications are received, which are rare); or,
 - C. Combine both the DRC and HPC functions with the Planning Commission; or,
 - D. Retain the DRC/HPC as is, but redefine the Design Review boundaries to eliminate the references to the Redevelopment Project Area (but keep the area the same), reduce the frequency of meetings to once every three months, reduce the members of the Commission from 7 to 5, and make changes to the membership requirements to make recruitment of new members easier; or,
 - E. Expand the boundaries of the Design Review Commission to involve a larger area of Downtown or perhaps other areas.

It is important to note that none of these options reflected any dissatisfaction with the Design Review Commission or its current members and the functions and community service they have provided for many years. It was simply a matter of reductions in City staff making it necessary to reduce the number of City Commissions, the desire to streamline the permitting process for new businesses, and the demise of the Redevelopment Agency, which also resulted in the demise of the Redevelopment Advisory Committee (RDAC) and the loss of RDA funds that currently support DRC functions.

Proposed Ordinance Changes

- H) City staff has prepared a draft ordinance (Attachment A) to implement the City Council’s direction to transfer the duties of the DRC/HPC to the Planning Commission and City staff. The following table summarizes the amendments included in the draft ordinance:

Merced Municipal Code Section	Proposed Change
2.20.020--“Planning Commission--Powers”	Under Section E, adds Historic Preservation Commission and Design Review Commission to list of additional duties in addition to the current Board of Zoning Adjustment.
Article IV of Title 17 “Buildings and Construction”	Changes “Regulations for Redevelopment Project Areas” to “Regulations for Downtown.”
17.36.800--“Design Review Commission”	Makes reference to the new description of the DRC boundaries in Chapter 20.86.010 below instead of referring to “Redevelopment Areas.”

Merced Municipal Code Section	Proposed Change
17.36.850—"Prohibited Signs"	Only change is to refer to the new description of the DRC boundaries in Chapter 20.86.010 below. (Sections A through G have not changed.)
17.54.030—"Historic Preservation Commission"	Replaces "Design Review Commission" with "Planning Commission" as serving as the Historic Preservation Commission.
17.54.040—"Powers and Duties"	"Commission" is now capitalized in the text.
17.54.060—"Procedures for Historic Preservation"	"Commission" and "City Council" are now capitalized in the text.
20.86—"Site Plan and Architectural Approval"	Reflects new titles for some of the sections in 20.86 as outlined below.
20.86.010—"Design Review Commission and Design Review Area"	This shows the Planning Commission now serving as the DRC and defines the Design Review boundary. The Design Review area was previously defined by the Redevelopment Project Area and all areas within 300 feet of that boundary. Since the Redevelopment Project Area no longer exists, it was necessary to define the area based on streets. Because of the irregular nature of the boundary, the description is, unfortunately, more complex, but the boundary itself has not changed. A map of the current and proposed boundary is included at Attachment B.
20.86.020—"Purpose of Commission"	Makes reference to the new description of the DRC boundaries in Chapter 20.86.010 above instead of referring to "Redevelopment Areas."
20.86.030—"Findings"	Makes reference to the new description of the DRC boundaries in Chapter 20.86.010 above instead of referring to "Redevelopment Areas."
20.86.040—"Functions of the Design Review Commission"	Makes reference to the new description of the DRC boundaries in Chapter 20.86.010 above instead of referring to "Redevelopment Areas" and corrects a minor typo which referred to Section "M" as "H." (No other changes to Sections A through M.)
20.86.050—"Principles to be Followed"	Design Review Commission is now capitalized. (No other changes.)

Merced Municipal Code Section	Proposed Change
20.86.060—"Architecture and Landscape Standards"	Design Review Commission is now capitalized. (No other changes.)
20.86.070—"Composition—Terms of Office"	This section will be repealed since the Planning Commission already has its terms of office defined elsewhere in the Municipal Code or City Charter
20.86.080—"Meetings of the Commission"	This section will be repealed for the same reason as above.
20.86.090—"Organization and Procedures"	This section will be repealed for the same reason as above.
20.86.100—"Fees and Drawings Required"	Makes reference to the new description of the DRC boundaries in Chapter 20.86.010 above instead of referring to "Redevelopment Areas."
20.86.110—"Action by Design Review Commission"	Changes the review time from 30 days to 90 days to better reflect Planning Commission policies and procedures.
20.86.120—"Review Procedures"	"Design Review Commission" is now capitalized. (No other changes.)
20.86.130—"Appeals"	"Design Review Commission" is now capitalized. (No other changes.)
20.86.140—"City Staff Functions"	Corrects the name of the "Site Approval Committee" to the "Site Plan Review Committee;" defines the boundary per 20.86.010; and adds the following tasks to the list of Staff duties to streamline the process for minor projects: "6) Minor additions and façade improvements to existing structures; and 7) New construction projects on a case-by-case basis that are deemed to be minor in nature at the discretion of the Director of Development Services."
20.86.150—"Required Before Zoning or Building Permit"	"Design Review Commission" is now capitalized. (No other changes.)
20.86.150—Coordination with Planning Commission	This section will be repealed since the two Commissions are now one body.

Environmental Clearance

- D) The Planning staff has conducted an environmental review (#13-06) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no further environmental review is needed) is being recommended (see Attachment C).

Attachments:

- A) Draft Ordinance
- B) Map of Design Review Boundary
- C) Categorical Exemption
- D) Draft Planning Commission Resolution

[KE: Projects\2013\2013 Special Projects\Zoning Ordinance Amendments\DRC & RDA\PCStaffRpt-ZOA13-01-May8-13.docx]

DRAFT

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING VARIOUS SECTIONS IN CHAPTERS
2.20, "PLANNING COMMISSION," 17.36,
"SIGNS," AND 17.54, "HISTORIC
PRESERVATION," AND CHAPTER 20.86, "SITE
PLAN AND ARCHITECTURAL APPROVAL," OF
THE MERCED MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN
AS FOLLOWS:**

SECTION 1. AMENDMENT TO CODE. Section 2.20.020,
"Powers," of the Merced Municipal Code is hereby amended to read as follows:

"2.20.020 Powers.

The powers of the Planning Commission are as follows:

- A. To adopt rules and regulations for the conduct of its affairs, provided such rules and regulations are not contrary to the provisions of the City Charter, or to the provisions of applicable state law and, provide further, if there be provisions of state law and the City Charter which are in conflict, that the provisions of the City Charter shall prevail;
- B. To perform such functions and with respect to such subjects as are prescribed as are prescribed by the City Charter and by state law;
- C. To initiate studies, to prepare plans and recommendations with respect thereto, on subjects properly related to a comprehensive planning

program whether such subjects are enumerated in the Charter and state law or not;

D. To serve in an advisory capacity on planning matters to the City Council, to other governmental agencies and officials, and to the public;

E. To serve as the Board of Zoning Adjustment per Section 2.24, the Historic Preservation Commission pursuant to Section 17.54, and the Design Review Commission per Section 20.86.”

SECTION 2. AMENDMENT TO CODE. Article IV, “Regulations for Redevelopment Project Areas,” of Title 17, Buildings and Construction, of the Merced Municipal Code is hereby re-titled as follows:

“Article IV.Regulations for Downtown”

SECTION 3. AMENDMENT TO CODE. Section 17.36.800, “Design Review Commission,” of the Merced Municipal Code is hereby amended to read as follows:

“17.36.800 Design Review Commission.

All signs erected, placed, maintained (other than as described in Section 17.36.860) or modified within boundaries established in Chapter 20.86 thereof shall be reviewed by the Design Review Commission staff as set forth in Chapter 20.86 and shall be subject to the following special requirements which are in addition to all other applicable requirements contained in this Chapter and Title 20 of this Code.”

SECTION 4. AMENDMENT TO CODE. Section 17.36.850, “Prohibited Signs,” of the Merced Municipal Code is hereby amended to read as follows:

“17.36.850 Prohibited Signs.

No person shall erect or place or allow or permit to be erected or placed any of the following signs in the design review boundaries as described in Section 20.86.010 thereof:

- A. Projecting signs, with the exception of a blade sign as defined in Section 17.36.035 of this Chapter and meeting the requirements in Section 17.36.835 of this Chapter;
- B. Freestanding signs over six (6) feet in height (inclusive of supports) measured at grade or exceeding thirty (30) square feet per face, except as permitted by Section 17.36.810(B), Section 17.36.810(C) and Section 17.36.820 of this Chapter;
- C. Billboards, unless located in an industrial zone;
- D. Signs emitting any foreign materials (sound, smoke, etc.);
- E. Signs with flashing or pulsating illumination (except for the sign(s) described in Section 17.36.810(C) of this Chapter which may be allowed by conditional use permit;
- F. Signs affixed to, laid upon, painted on or attached to the roof of any structure or building;
- G. A United States flag and/or a California flag of any size shall be permitted to be flown less than

forty (40) feet above grade; all other flags shall be considered signs subject to all limitations contained in this Chapter.”

SECTION 5. AMENDMENT TO CODE. Section 17.54.030, “Historic Preservation Commission,” of the Merced Municipal Code is hereby amended to read as follows:

“17.54.030 Historic Preservation Commission.

The Planning Commission, in addition to its other powers and duties, shall serve as the Historic Preservation Commission.”

SECTION 6. AMENDMENT TO CODE. Section 17.54.040, “Powers and Duties,” of the Merced Municipal Code is hereby amended to read as follows:

“17.54.040 Powers and Duties.

The Commission shall have the following powers and duties:

- A. With the consent of the property owner, designate historic resources;
- B. Review applications for, and issue certificates for alteration for construction, alteration, or demolition of designated historic resources;
- C. Consult with and consider the ideas and recommendations of civic groups, public agencies and citizens interested in historic preservation;
- D. View structures, sites and areas which it has reason to believe are worthy of preservation;

E. Disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation, and encourage and advise property owners and members of the community generally in the protection, enhancement, perpetuation and use of property designated historic;

F. Consider methods other than those provided for in this Chapter for encouraging and achieving historical or architectural preservation.”

SECTION 7. AMENDMENT TO CODE. Section 17.54.060, “Procedures for Historic Preservation,” of the Merced Municipal Code is hereby amended to read as follows:

“17.54.060 Procedures for Historic Preservation.

Upon an application filed with the Commission, the Commission shall recommend the designation of an historic resource to the City Council.

The procedure for designation of historic resources is as follows:

A. Any person or entity may file an application with the Commission upon paying an application fee in an amount as designated from time to time by Resolution of the City Council; provided however, the application shall not be deemed complete unless the property owner consents to the proposed designation.

B. The application shall include the following data:

1. Assessor’s parcel number of the site or legal description;

2. Description detailing the proposed resource's special aesthetic, cultural, architectural, artistic, or engineering interest or value of an historic nature;
3. Sketches, drawings, photographs, or other descriptive materials;
4. Statement of condition of structures;
5. The written consent of the property owner for the proposed designation;
6. Other material and information requested by the Commission.

C. Each proposal shall be considered by the Commission at a public hearing. Notice of the time, place and purpose of such hearing shall be given by the Commission in the official newspaper of the City not less than thirty (30) calendar days prior to the date of the hearing. Notice of the hearing shall be sent by first class and by registered mail not less than ten (10) days prior to the date of the hearing to the owner(s) of the proposed historic resource and by first class mail to the owner(s) of property(ies) within three hundred (300) feet of the site as shown on the most recent assessor's roll. The Commission may also give such additional notice as the Commission may deem desirable.

D. Within thirty (30) days following the public hearing, the Commission shall submit to the City Council a report of the findings, summary of the hearing, and a recommendation to approve, disapprove, or approve with modifications the application for historic designation.

E. Upon receipt of the report from the Commission, the City Council shall set the matter for public hearing within thirty (30) days and shall render its decision within thirty (30) days following the close of said hearing. The recommendation of the Commission, approved by at least four (4) affirmative votes, shall be approved unless reversed by the City Council.

F. Prior to approval or approval with modification, the city council shall find:

1. That the proposed structure, natural feature, site or district has significance as a historic resources; and,
2. That the proposed designation may be made without imposing an undue hardship upon the owner(s) of the property(ies); and,
3. That the approval or approval with modification(s) of the application is consistent with the purpose and criteria of this Chapter

G. Following approval of the designation, the City Council shall send to the owner(s) of the property(ies) so designated a letter outlining the basis for such designation, and the regulations resulting from such designation. The City Council may also forward a copy of the letter to any other department or agency requesting it or that the City Council considers affected by the designation.

H. Upon approval of a designation, the City Clerk shall cause notice of such designation to be recorded in the office of the County Recorder of the County of Merced against the parcel on which the historic resource is located.”

SECTION 8. AMENDMENT TO CODE. Chapter 20.86, "Site Plan and Architectural Approval," of the Merced Municipal Code is hereby amended to read as follows:

**"CHAPTER 20.86
SITE PLAN AND ARCHITECTURAL APPROVAL**

Sections:

- 20.86.010 Design Review Commission and Design Review Area.**
- 20.86.020 Purpose of Commission.**
- 20.86.030 Findings.**
- 20.86.040 Functions of the Design Review Commission.**
- 20.86.050 Principles to be Followed.**
- 20.86.060 Architectural and Landscape Architectural Standards.**
- 20.86.070 Repealed.**
- 20.86.080 Repealed.**
- 20.86.090 Repealed.**
- 20.86.100 Fees and Drawings Required.**
- 20.86.110 Action by Design Review Commission.**
- 20.86.120 Review Procedures.**
- 20.86.130 Appeals.**
- 20.86.140 City Staff Functions.**
- 20.86.150 Required Before Zoning or Building Permit.**
- 20.86.160 Repealed.**

- 20.86.010 Design Review Commission and Design Review Area.**

The Planning Commission, in addition to its other powers and duties, shall serve as the Design Review Commission. The review boundaries of the Design Review Commission are as follows:

A. All areas within three hundred (300) feet of the following boundaries – all areas north of the following boundary line which runs along Highway 99 from its intersection with West 16th Street extending east to R Street, then running north along R Street until its intersection with West 15th Street and then extending east until M Street, then turning north on M Street until its intersection with West 16th Street then extending east along West 16th Street until K Street, then running south on K Street until its intersection with West 15th Street, then extending east along West 15th Street until Martin Luther King Jr. Way, then extending south along Martin Luther King Jr. Way until its intersection with Highway 99 then extending east along Highway 99 until its intersection with East 16th Street then extending north along D Street and including all area west of that boundary until its intersection with the alley that runs east-west between East 16th Street and East Main Street; and then includes all areas south of the following boundary which extends west along the alley that runs west between East 16th Street and East Main Street; until its intersection with G Street and then extends north along G Street until West Main Street and then extends west along West Main Street until its intersection with I Street and then extends north along I Street until West 18th Street and then extends west along West 18th Street until Martin Luther King Jr. Way and then extends north along Martin Luther King Jr. Way until West 19th Street and then extends west along West 19th Street until Canal Street and then turns north along Canal Street until West 20th Street where it turns west and extends along West 20th Street until N Street, then turns south and extends along N Street until West 18th Street and then turns west and extends along West 18th Street until R Street and then turns north and extends along R Street until West 19th Street and then turns west and extends along West 19th Street until North Bear Creek Drive where it turns south and west along North Bear Creek Drive until its intersection with Highway 59 and then turns north and

extends north along Highway 59 until the Burlington Northern and Santa Fe Railroad Tracks, where it turns west and north and runs along the BNSF tracks until Black Rascal Creek where it turns west and south along Black Rascal Creek until Thornton Road (extended) where it runs along Thornton Road extended until Highway 99 where it turns east and runs along Highway 99 until it reaches its intersection with West 16th Street, which was the beginning of this boundary described above.

20.86.020 Purpose of Commission.

The purpose of the Design Review Commission is comprehensive site plan and architectural review within the boundaries established in Section 20.86.010 so as to determine compliance with this Chapter and to promote the orderly and harmonious growth of the City and the stability of land values and investments and the general welfare; and to help prevent the impairment or depreciation of land values and development by the erection of structures, additions, or alterations thereto without proper attention to siting, or of unsightly, undesirable, or obnoxious appearance; and to prepare for and help to prevent problems arising affecting the community due to the nature of existing and planned uses of land and structures, such as traffic, public safety, public facilities, utilities and services, among others; and to carry out the beneficial objectives contained in redevelopment plans adopted for areas within the City.

20.86.030 Findings.

The City Council finds that poor or inappropriate exterior design of improvements to real property within the boundaries established in Section 20.86.010 thereof adversely affects the health, safety, and welfare of the residents of the city by creating one (1) or more of the following conditions:

- A. The desirability of other properties within the vicinity for the uses for which they are zoned is adversely affected;
- B. The benefits of occupancy of other property in the vicinity are impaired;
- C. Property values within the vicinity do not retain their stability;
- D. The most appropriate development of other properties within the vicinity is impaired;
- E. The maintenance or improvement, or both, of surrounding properties is discouraged with the result that these properties degenerate and there is an accompanying deterioration of conditions which affect the health, safety, comfort and general welfare of the inhabitants of the area and the inhabitants of the City at large;
- F. The property relationship between the taxable value of real property in the vicinity and the cost of municipal services to these properties are destroyed; and
- G. The unsightliness which exists causes a decrease in the value of surrounding properties.

20.86.040 Functions of the Design Review Commission.

The functions of the Design Review Commission shall be to review the following with respect to all structures, except (1) single-family detached dwellings (and buildings accessory thereto) and (2) projects located in I-R, I-L, and I-H zones which lie within the boundaries established in Section 20.86.010:

- A. Siting of all structures as designated upon a site plan;
- B. Landscaping, fencing, and other screening as designated on a landscape and/or sprinkler plan featuring all existing trees and shrubs and proposed plantings;
- C. Design of all circulation, parking and loading facilities for automobiles and bicycles;
- D. Screening of refuse facilities;
- E. Details of fencing, and location of public works items such as curb cuts, curbs, gutters, sidewalks, sidewalk design, drainage, and fire hydrants;
- F. Location, design and intensity of all onsite exterior lighting;
- G. Location and design of addressing system and/or graphics and mail delivery system;
- H. Design of all open space areas;
- I. Exterior elevations and/or perspective drawings of structures featuring building height, description of all building materials, building colors, screening of utility meters and mechanical equipment;
- J. Design, placement, dimension, colors of all proposed signs and exterior graphics. This shall include building materials, lighting systems and intensity of signs and temporary signs and shall apply to all temporary as well as permanent signing;
- K. Review of single-family attached buildings shall also include future major additions to patio area, etc.;
- L. Review of sign variance applications (including variation from the requirements of Title 17) (in lieu of

review by the board of zoning adjustment) upon proper public hearing and review procedures as identified in this Title 20

M. Review of design and placement of facilities for physically handicapped.

20.86.050 Principles to be Followed.

In carrying out the purposes of this Chapter with respect to the external design of buildings and site plans of all proposed new or rehabilitated buildings, structures or uses, the following principles shall be applicable:

A. Review of architectural character shall not be so restrictive that individual initiative is stifled in the design of any particular building or site or that substantial additional expense is required. Rather, it is the intent of this Chapter that the review exercised shall be the amount necessary to achieve the overall objectives of this Chapter and the redevelopment plans;

B. Good architectural character is based upon the suitability of a building and/or site for its purposes; upon the appropriate use of sound materials, good relationship with other structures, and the character of the City; and upon the principles of harmony, preparation and design in the elements of the building and/or site;

C. Good architectural character and site planning design are not, in themselves, more expensive than poor architectural character and poor site planning design, and are not dependent upon the particular styles of architecture of site plan design selected;

D. Review of sign graphics shall be based upon suitability of the sign colors, placement, design to overall building design, and adjacent sign themes. The Design Review Commission shall consider the extent, design

and location of all temporary signs as well as permanent signs in the review of sign graphics.

**20.86.060 Architectural and Landscape
Architectural Standards.**

The Design Review Commission shall refer and utilize the design guidelines booklet for Merced Downtown Revitalization dated July, 1977, and the Downtown Sign Guides dated April, 1983, compiled from the design review board, project area committee and the project area sign task force.

These booklets shall serve as a guide to the City staff, citizen, and project proponent before the Design Review Commission.

20.86.070 Repealed.

20.86.080 Repealed.

20.86.090 Repealed.

20.86.100 Fees and Drawings Required.

An applicant for a building permit for property within the boundaries described in Section 20.86.010 shall submit ten (10) copies of accurately scaled drawings with one (10) copy of the application form supplied by the City. The Commission may require submission of amendments to an application before, during or after its meeting to reflect more detailed information reasonably necessary for the Commission to make its determination.

When applicable, colored renderings, building material palette or samples and color photographs should be submitted along with scale drawings. The fee for a design review application shall be that set by resolution of the City Council for that purpose, plus the cost of

special reports that may be required to process it, as set out in this Chapter.

20.86.110 Action by Design Review Commission.

The Design Review Commission shall act upon any application within ninety (90) days of acceptance of filing and payments of fees, and may approve the application, disapprove the application, or approve the same subject to conditions, specified changes, or additions. Failure of the Design Review Commission to act upon any application within ninety (90) days shall be deemed to be approval of the application. The applicant requesting approval of his site plan and design shall be notified in writing in advance of the hearing, and notified of the action taken.

20.86.120 Review Procedures.

The review procedures for all applications may consist of a preliminary plan and a final plan or just the latter. The Design Review Commission encourages a preliminary and final plan in instances of large or complicated development projects.

Preliminary review by the Design Review Commission has the following purposes:

- A. Indicate to the applicant major areas of deficiency and good design;
- B. Instruct the applicant to sections of the project which are unacceptable or need minor revision; and
- C. Inform the Design Review Commission on the scope of the project for the final review stage.

20.86.130 Appeals.

Any determination of the Design Review Commission may be appealed to the City Council upon written request for a hearing before the City Council. Such appeal shall specify with reasonable certainty the portion or portions of the Commission's determinations which the applicant feels to be in error. Such appeal shall be accompanied by a fee set by resolution by City Council for such purposes. In the absence of such request being filed within five (5) days after the determination of the Design Review Commission, such determination is final.

20.86.140 City Staff Functions.

A. The Site Plan Review Committee is given authority to review projects within the design review boundary, which are located in I-R, I-L, and I-H zones as to those items set forth in Section 20.86.040.

B. The Design Review Commission has delegated certain minor projects to the City staff for review and approval or denial. The following tasks are delegated to the City staff:

1. Review and approval of painting permits for buildings;
2. Review and approval of all sign applications;
3. Items referred to staff following Design Review Commission review;
4. Approval of sign maintenance applications. For the purposes of this section, maintenance shall be defined as the painting, repair and/or replacement of defective parts of a sign in a manner that

does not alter the basic copy, design or structure of the sign;

5. Approval of minor design changes, construction material changes, sign letter copy changes, and landscaping changes which are proposed after the Design Review Commission has approved the project and which do not alter the basic design or structure of the project;
6. Minor additions and façade improvements to existing structures;
7. New construction projects on a case-by-case basis that are deemed to be minor in nature at the discretion of the Director of Development Services.

The Design Review Commission may establish guidelines for the City staff to handle such delegated tasks.

The City staff may, in their discretion, require an applicant to present a project at a Design Review Commission meeting, notwithstanding staff's authority to approve or deny the project.

Any minor project reviewed by the City staff shall be reviewed by the Design Review Commission upon written notice of appeal to the Commission filed within five (5) calendar days following the staff determination.

20.86.150 Required Before Zoning or Building Permit.

No building or zoning permit shall be issued in any case where review by the Design Review Commission is required by the terms of this Chapter until five (5) days

after the approval of the Design Review Commission is obtained, and then only in accordance with the terms and conditions imposed by the Design Review Commission, as consistent with all applicable zoning, building, and all other codes and ordinances of the City. In the event that approval is obtained on appeal to the City Council, then the building or zoning permit may be issued immediately thereafter.

20.86.160 Repealed.”

SECTION 9. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 10. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 11. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

///

///

///

///

///

///

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2013, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2013, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

DRAFT

APPROVED:

DRAFT

Mayor

ATTEST:
JOHN M. BRAMBLE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

DRAFT

(SEAL)

APPROVED AS TO FORM:

DRAFT

City Attorney Date

NOTICE OF POTENTIAL INTRODUCTION OF ORDINANCE

CITY OF MERCED

NOTICE IS HEREBY GIVEN that on _____, 20__, the City Council of the City of Merced is scheduled to consider the introduction of an Ordinance entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING VARIOUS SECTIONS IN CHAPTERS 2.20, ‘PLANNING COMMISSION,’ 17.36, ‘SIGNS,’ AND 17.54, ‘HISTORIC PRESERVATION,’ AND CHAPTER 20.86, ‘SITE PLAN AND ARCHITECTURAL APPROVAL,’ OF THE MERCED MUNICIPAL CODE”

at its regular meeting to be held at 7:00 pm in the City Council Chambers at 678 West 18th Street, Merced, California. The public is invited to provide any oral or written comments regarding this proposed Ordinance.

If adopted, this Ordinance . . . [INSERT ORDINANCE SUMMARY HERE]

A copy of the full text of the proposed Ordinance is available for review in the Office of the City Clerk, City of Merced, 678 West 18th Street, Merced, California, and on the City’s website at www.cityofmerced.org.

DANA J. DAVIDSON
ASSISTANT CITY CLERK

PUBLISH:

PUBLIC NOTICE OF ADOPTION OF ORDINANCE

CITY OF MERCED

ORDINANCE NO. _____

NOTICE IS HEREBY GIVEN that on _____, 20__, the City Council of the City of Merced adopted Ordinance No. _____, entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING VARIOUS SECTIONS IN CHAPTERS 2.20, ‘PLANNING COMMISSION,’ 17.36, ‘SIGNS,’ AND 17.54, ‘HISTORIC PRESERVATION,’ AND CHAPTER 20.86, ‘SITE PLAN AND ARCHITECTURAL APPROVAL,’ OF THE MERCED MUNICIPAL CODE”

Ordinance No. _____ . . . [INSERT ORDINANCE SUMMARY HERE]

Ordinance No. _____ was adopted by the following roll call vote of the City Council:

AYES: Council Members:

NOES: Council Members:

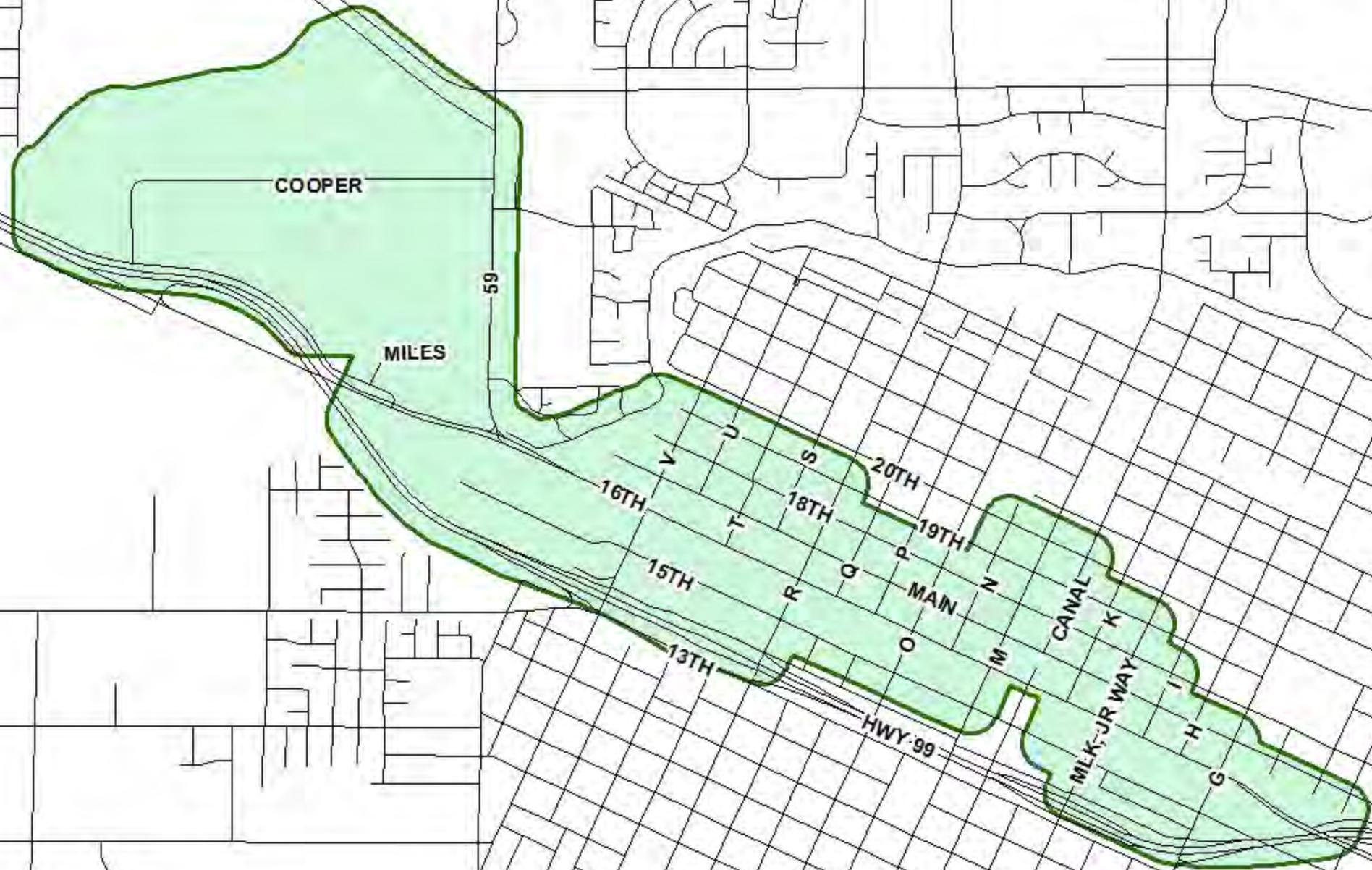
ABSTAIN: Council Members:

ABSENT: Council Members:

A copy of the full text of Ordinance No. _____ is available for review in the Office of the City Clerk, City of Merced, 678 West 18th Street, Merced, California, and on the City’s website at www.cityofmerced.org.

DANA J. DAVIDSON
ASSISTANT CITY CLERK

PUBLISH:



ATTACHMENT B

Legend

 DRC Boundary



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

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

Project Title: Zoning Ordinance Amendment (ZOA) #13-01

Project Applicant: City of Merced

Project Location (Specific): City of Merced. **APN:** n/a (Citywide)

Project Location - City: Merced **Project Location - County:** Merced

Description of Nature, Purpose, and Beneficiaries of Project: Amend the Merced Municipal Code to shift the duties previously assigned to the Design Review Commission/Historic Preservation Commission (DRC/HPC) to the Planning Commission and City staff for projects within the Downtown area and historic preservation projects. Other changes to the Municipal Code would re-title references within the sign code to the Merced Redevelopment Agency and Redevelopment Areas, which no longer exist, without changing the sign requirements themselves in any manner.

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 adoption of the ordinance would shift project review duties for Downtown and historic preservation from the DRC/HPC to the Planning Commission and City staff and re-title references in the sign code to the Merced Redevelopment Agency and Redevelopment Areas, which no longer exist. Therefore, the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA since it only shifts the review of projects to a different City Commission or City staff. Project level reviews for environmental impacts will continue to be prepared.

Lead Agency: City of Merced

Contact Person: Kim Espinosa, Planning Manager **Area Code/Telephone:** (209) 385-6858

Signature:  **Date:** 4-18-13 **Title:** Planning Manager

Signed by Lead Agency **Date Received for Filing at OPR:** _____
(If applicable)

CITY OF MERCED
Planning Commission

Resolution #3019

WHEREAS, the Merced City Planning Commission at its regular meeting of May 8, 2013, held a public hearing and considered **Zoning Ordinance Amendment #13-01/Environmental Review #13-06**, initiated by the City of Merced, including amendments to various sections in Chapters 2.20, “Planning Commission,” 17.36, “Signs,” and 17.54, “Historic Preservation,” and Chapter 20.86, “Site Plan and Architectural Approval,” of the Merced Municipal Code. This ordinance is intended to shift the duties previously assigned to the Design Review Commission/Historic Preservation Commission to the Planning Commission and City staff for projects within the Downtown area and historic preservation projects. Other changes to the Municipal Code would re-title references within the sign code to the Merced Redevelopment Agency and Redevelopment Areas, which no longer exist, without changing the sign requirements themselves in any manner; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #13-10; and,

NOW THEREFORE, after reviewing the City’s Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #13-06, and approval of Zoning Ordinance Amendment #13-01, as set forth in Attachment A of Staff Report #13-10.

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

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

PLANNING COMMISSION RESOLUTION #3019

Page 2

May 8, 2013

Adopted this 8th day of May 2013

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary