

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2018-04

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW A
FREEWAY-ORIENTED SHOPPING CENTER SIGN AT 82 FEET LOCATED
3900 SISK ROAD (ANDY SOARES)

WHEREAS, an application for a Conditional Use Permit for a freeway-oriented shopping center sign to be constructed at 82 feet located 3900 Sisk Road, was filed by Andy Soares on April 30, 2018; and

WHEREAS, Section 10-9.102 of the Municipal Code authorize the Board of Zoning Adjustment to grant Conditional Use Permits; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on June 28, 2018, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, this matter is exempt under Section 15311(a) of the CEQA Guidelines, which exempts on-premise signs.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that it finds and determines as follows:

1. The proposed conditional use permit is consistent with the objectives and requirements of Title 10, which allows freeway-oriented signs for shopping centers over five acres within 600 feet of Freeway 99.
2. The proposed conditional use and the conditions under which it will operate is consistent with the General Plan, by furthering the economic development goals of the General Plan.
3. The proposed conditional use will not be detrimental to the public health, safety, or welfare or materially injurious to uses, properties or improvements in the vicinity, as it will be required to operate in accordance with the City's sign regulations.
4. The proposed conditions of approval will ensure compatibility with the surrounding uses.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit to allow a freeway-oriented 181.2 square foot shopping center sign of height be granted subject to the following conditions:

1. The sign shall be constructed in accordance with the plans labeled CNP Signs and Graphics, stamped and approved by the Board of Zoning Adjustment on June 28, 2018.
2. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages,

losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

Failure to comply with any of the above conditions is unlawful and will constitute grounds for revocation of the conditional use permit.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on June 28, 2018, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that the Secretary of the Board is directed to file with the Stanislaus County Clerk a Notice of Determination in regard to the environmental impact of the proposed conditional use permit.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on June 28, 2018, by Board Member Moradian, who moved its adoption, which motion was seconded by Board Member Selover and carried by the following vote:

Ayes:	Blom, Goriel, Moradian, Selover, Vohra, Rodriguez
Noes:	None
Absent:	Roddick
Recused:	None

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO.

Original, signed copy on file in CEDD
Patrick Kelly, Secretary