

**CITY OF MERCED**  
**Planning & Permitting Division**

**STAFF REPORT:** #19-28

**AGENDA ITEM:** 4.1

**FROM:** Kim Espinosa,  
Planning Manager

**PLANNING COMMISSION**  
**MEETING DATE: Nov. 6, 2019**

**PREPARED BY:** Francisco Mendoza-Gonzalez,  
Associate Planner

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**SUBJECT:** **Administrative Conditional Use Permit #AS-229**, initiated by Seritage SRC Finance, LLC, property owners. This application involves consideration of a Comprehensive Sign Package (including additional wall mounted signage and a 34-foot-tall corner wall sign) for the new commercial suites at 1011 W. Olive Avenue. The site is generally located on the east side of R Street, approximately 1,100 feet north of Olive Avenue, within Planned Development (P-D) #1, with a Regional/Community Commercial (RC) General Plan designation.\* PUBLIC HEARING\*

**ACTION:** Approve/Disapprove/Modify  
1) Administrative Conditional Use Permit #AS-229

**SUMMARY**

Seritage Growth Properties is requesting Administrative Conditional Use Permit (ACUP) approval of their Master Sign Program for their remodeled commercial building at 1011 W. Olive Avenue (the old Sear's building). The remodeled building would be approximately 100,000 square feet with eight tenant suites. The subject site is located on the east side of R Street, approximately 1,100 feet north of Olive Avenue (Attachment A). The subject site is located within Planned Development (P-D) #1 and has a General Plan designation of Regional/Community Commercial (RC). An ACUP is required to allow additional signage on the main elevation of each commercial suite, and to approve the design and location of the proposed 34-foot-tall corner wall sign shown at Attachments B and C. An ACUP is typically approved by the Director of Development Services however, the Zoning Ordinance provides the Director of Development Services the discretion to refer a project to the Planning Commission for action if deemed appropriate. In this case, given the proposed unique corner wall sign, the Director of Development Services determined it would be appropriate to require a public hearing before the Planning Commission to allow adjacent property owners the opportunity to provide comments. As of the time this staff report was prepared, staff had not received any comments from the public.

City staff has reviewed the proposal and is recommending approval of the Administrative Conditional Use Permit subject to the conditions below.

**RECOMMENDATION**

Planning staff recommends that the Planning Commission approve Administrative Conditional Use Permit #AS - 229 (including the adoption of the draft Resolution at Attachment F) subject to the following conditions:

- \*1) The proposed project shall be constructed/designed as shown on Exhibit 1 (Master Sign Program), - Attachment B, except as modified by the conditions.
- \*2) The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- \*3) All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
- \*4) The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
- \*5) The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
- \*6) All signs shall comply with the North Merced Sign Ordinance. No temporary freestanding or moveable signs shall be allowed.

- \*7) As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
- 8) The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
- 9) The 34-foot-tall corner wall sign is considered to be this site’s “Freestanding Shopping Center” sign as defined in MMC 17.36.667 and no additional shopping center signs can be approved. Monument signs may be considered for this site as allowed by the Merced Municipal Code.
- 10) Final approval of each individual sign shall require a sign permit and approval by the Development Services Department.

(\* ) Denotes non-discretionary conditions.

**PROJECT DESCRIPTION**

Seritage Growth Properties is requesting Administrative Conditional Use Permit (ACUP) approval of their Master Sign Program for their remodeled commercial building at 1011 W. Olive Avenue (the old Sear’s building). The remodeled building would be approximately 100,000 square feet with eight tenant suites. The subject site is located on the east side of R Street, approximately 1,100 feet north of Olive Avenue (Attachment A). An ACUP is required to allow additional signage on the main elevation of each commercial suite, and to approve the design and location of the proposed 34-foot-tall corner wall sign shown on Page 3 of Attachment B.

Surrounding uses are noted at Attachment A.

<b>Surrounding Land</b>	<b>Existing Use of Land</b>	<b>City Zoning Designation</b>	<b>City General Plan Land Use Designation</b>
North	Target	Planned Development (P-D) #1	Regional/Community Commercial (RC)
South	Chipotle/Panera	Planned Development (P-D) #1	Regional/Community Commercial (RC)
East	Merced Mall	Planned Development (P-D) #1	Regional/Community Commercial (RC)
West	99 Cent Store (across R Street)	Planned Development (P-D) #7	Regional/Community Commercial (RC)

**BACKGROUND**

In June 2019, Seritage Growth Properties received Site Plan Review approval to remodel the interior and exterior of their commercial building at 1011 W. Olive Avenue. Modifications to the subject site include converting the delivery zone into tenant space and dividing the building into

eight independent commercial suites. Façade improvements include installing new storefront windows, adding new entryways/parapets, and painting the exterior of the building (Attachment C). Site plan modifications include modifying the parking lot, adding pedestrian paths-of-travel, providing a new loading zone, and installing new landscaping. The Site Plan Review approval required the applicant to submit a Master Sign Program that would be reviewed with an Administrative Conditional Use Permit. Given the unique size and location of the proposed corner wall sign, the Director of Development Services determined that it would be best to refer the Master Sign Program to the Planning Commission. The subject site is currently being partially demolished, and the developer intends to finish remodeling the site sometime in Spring or Summer 2020.

### **FINDINGS/CONSIDERATIONS:**

#### **General Plan Compliance and Policies Related to This Application**

- A) The proposed project complies with the General Plan designation of Regional/Community Commercial (RC) and the zoning designation of Planned Development (P-D) #1 with approval of this Administrative Conditional Use Permit.

#### **Public Improvements/City Services**

- B) Per Condition #7, Merced Municipal Code Section 17.04.050 and 17.04.060, requires full public improvements to be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations. The need for any new improvements or repairs to existing improvements would be determined by the Engineering Department at the building permit stage.

#### **Signage**

- C) All signs would be required to comply with the North Merced Sign Ordinance (Condition #6). No temporary, moveable, or free-standing signs would be allowed. Building permits are required prior to the installation of any permanent signs.

Approval of this ACUP would allow each tenant to place their maximum allotment of signage on their main elevation, as shown on the right column of the chart on the next page. However, there would still need to be enough signage left over to install the corner wall sign shown on Page 3 of Attachment C.

Tenant	Olive Ave. Frontage	Setback	R St. Frontage	Setback	Standard Allowable Sign Area on Primary Elevation	Maximum Sign Area on Primary Elevation with ACUP
A	68 feet	362 feet	60 feet	292 feet	49 s.f.	98 s.f.
B	36 feet	362 feet	N/A	N/A	42 s.f.	84 s.f.
C	26 feet	362 feet	N/A	N/A	39 s.f.	78 s.f.
D	52 feet	362 feet	N/A	N/A	45 s.f.	90 s.f.
E	N/A	N/A	184 feet	300 feet	65 s.f.	130 s.f.
F	N/A	N/A	63 feet	305 feet	54 s.f.	108 s.f.
G	N/A	N/A	130 feet	309 feet	73.5 s.f.	147 s.f.
H	N/A	N/A	79 feet	312 feet	57.5 s.f.	115 s.f.

**Signage Design**

D) The applicant has provided the Master Sign Program shown at Attachment B. Individual tenant signs would be reviewed by the landlord (before submitting sign permit applications to the Building Department) to ensure a cohesive aesthetic between the various tenants with consideration for design, materials, and colors. The proposed corner wall sign would be approximately 34 feet tall and 16 feet wide, with one side of the structure facing R Street and the other side of the structure facing Olive Avenue. Each side would have four tenant slots and would be crowned with a panel showing “Shoppes at Merced Mall.” The backboard would be made of pre-finished faux wood panels, and the tenant slots would be internally illuminated with push through acrylic letters that provide depth and volume to the signs. The applicant has indicated that the exact finishes may be coordinated with the Merced Mall to ensure a compatible design with the mall.

As shown on Attachment C, the applicant has indicated that they would prefer to install a corner wall sign instead of a freestanding shopping center sign. To prevent an excessive amount of signage at this site, staff is including Condition #9 which would prohibit the installation of any future shopping center signs at this site. However, the applicant would still have the option to request approval for monument signs, which are smaller than shopping center signs, have maximum dimensions of 4-feet-tall by 6-feet-wide, and are generally placed near driveways.

### **Neighborhood Impact/Public Comments**

- E) Staff mailed a public hearing notice to property owners within 300 feet of the subject site, and published the public hearing notice in the Merced County Times. As of the time this report was prepared, (10/31/2019), Planning staff did not received any formal comments from any residents or business owners. On Page 3 of Attachment B, Seritage included a note on the elevations indicating that they would like to work with Merced Mall to have a cohesive design that would be consistent with the mall's signs. Final approval of each individual sign will be subject to Planning Staff approval at the building permit stage (Condition #10).

### **Administrative Conditional Use Permit**

- F) An ACUP is required to allow additional signage on the main elevation of each commercial suite, and to approve the design and location of the proposed 34-foot-tall corner wall sign shown at Attachments B and C. In order for the Planning Commission to approve or deny an administrative conditional use permit (ACUP) they must consider the following criteria and make findings to support or deny each criteria per Merced Municipal Code (MMC) 17.36.780 – Use permit – Criteria, and MMC 20.68.020 (E) Findings for Approval for Conditional Use Permits.

#### **MMC 17.36.780 - Use permit—Criteria.**

- A. The availability of appropriate sign locations of sufficient size upon the structure;

All signs shall comply with the North Merced Sign Ordinance standards and requirements found in Merced Municipal Code Section 17.36 Article III – Regulations for North Merced. This proposal is being reviewed in concept. Official signage proposals for each suite have yet to be submitted and are currently not available (as not all tenants have been determined). During the sign permit stage, Planning staff shall review the signs to ensure compliance with the availability of appropriate sign locations and size on each structure.

- B. Compatibility of the proposed signs with surrounding uses;

All signs shall comply with the North Merced Sign Ordinance standards and requirements found in Merced Municipal Code Section Article III – Regulations for North Merced. This proposal is being reviewed in concept. Official signage proposals for each suite have yet to be submitted and are currently not available (as not all tenants have been determined). During the sign permit stage, Planning staff shall review the proposed signs to ensure compatibility and consistency with the materials and colors of the building.

C. The proximity of signs to adjacent streets;

The proposed signs will be mounted on the building walls above the entrance to each suite or at the southwest corner of the building. The distance between the signs located on the west elevation and R Street is between 292 feet and 312 feet (depending on the location of the suite), and the distance between the signs located on the south elevation and Olive Avenue is 362 feet for all suites.

D. The size of logos on fascias with limited vertical distance; and

This proposal is being reviewed in concept. Official signage proposals are currently not available (as not all tenants for this building have been determined). During the sign permit stage, Planning staff shall review signs to ensure compliance regarding size of logos on fascias with limited vertical distance.

E. Such other factors that may pertain to the overall appearance and quality of signing for the particular area within which a sign is proposed.

This proposal is being reviewed in concept. Official signage proposal for each suite is currently not available (as not all tenants for this building have been determined). During the sign permit stage, Planning staff shall review all signs to consider factors that may pertain to the overall appearance and quality of signage for the area which a sign is proposed.

**MMC 20.68.020 (E) Findings for Approval.**

1. The proposed use is consistent with the purpose and standards of the zoning district, the general plan, and any adopted area or neighborhood plan, specific plan, or community plan.

The proposed project complies with the General Plan designation of Regional/Community Commercial (RC) and the zoning designation of Planned Development (P-D) #1 with approval of this Administrative Conditional Use Permit.

2. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the subject property.

All signs shall be required to comply with the North Merced Sign Ordinance standards and requirements found in Merced Municipal Code Section Article III – Regulations for North Merced ensuring consistent signs standards with signs located on surrounding commercial buildings.

3. The proposed use will not be detrimental to the public health, safety, and welfare of the city.

To ensure the proposal is not detrimental to the public health, safety, and welfare of the city, the applicant shall subsequently apply for sign permits with the City's Building Department. Plans shall be submitted by a design professional and signage installation shall be done by a licensed contractor (license type as required by the California Building Code).

4. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

The proposed signs are located within the city and can be adequately served by existing services and infrastructure.

### **Environmental Clearance**

- G) Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption is being recommended (Attachment E).

### **Attachments:**

- A) Location Map
- B) Master Sign Program
- C) Conceptual Renderings of Remodeled Building from SP #440
- D) Letter from the Applicant Regarding Shopping Center Signs
- E) Categorical Exemption
- F) Draft Planning Commission Resolution





**ATTACHMENT A**

# Shoppes at Merced Mall

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## SERITAGE GROWTH PROPERTIES

500 5th Ave, New York, NY 10110

## MASTER SIGN PROGRAM CRITERIA



Prepared by

**m c g** architecture

7100 East Pleasant Valley Road, Suite 320, Cleveland, OH 44131

October 03, 2019

# Shoppes at Merced Mall

## VICINITY MAP



SITE

Figure 1

# Shoppes at Merced Mall

## SIGNAGE LOCATION PLAN



Figure 2

# Shoppes at Merced Mall

## WALL MOUNTED DEVELOPMENT SIGN

One wall mounted development sign will wrap the southwest corner of the main retail building at the Shoppes at Merced Mall (see Figure 2.) Sign area - all inclusive. Total maximum allowable sign area for each tenant (see figure 6) includes signage and wall mounted development sign, but does not include undercanopy signs.

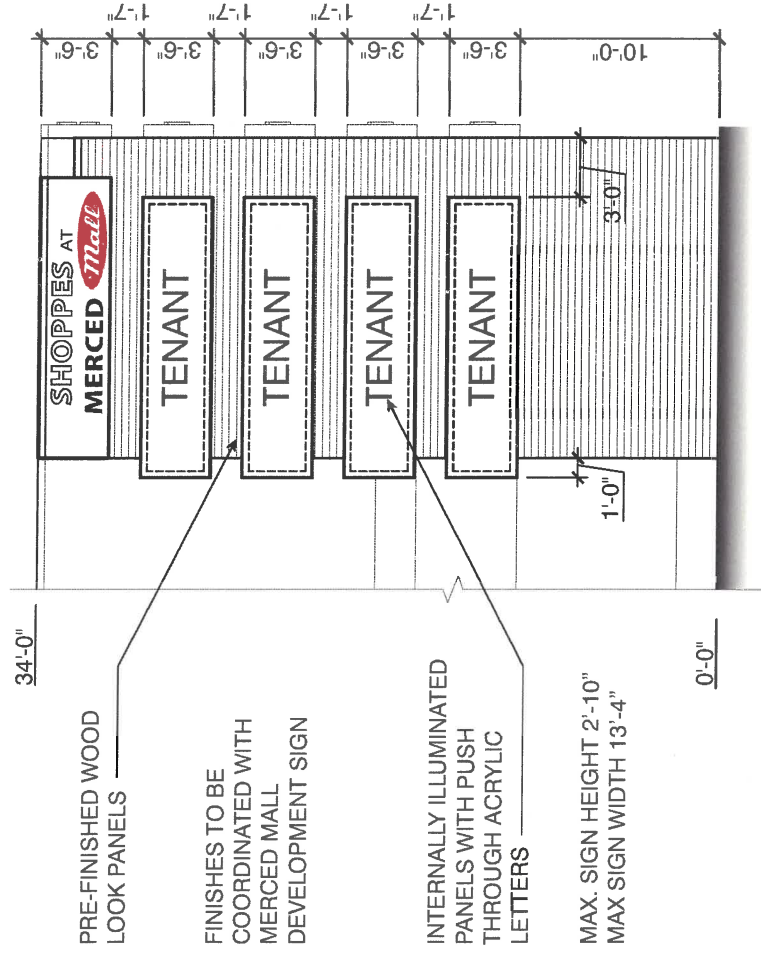


Figure 3 **P1** R Street Elevation

NOTE:  
Total Sign Area : 37.7 s.f. (per tenant sign)

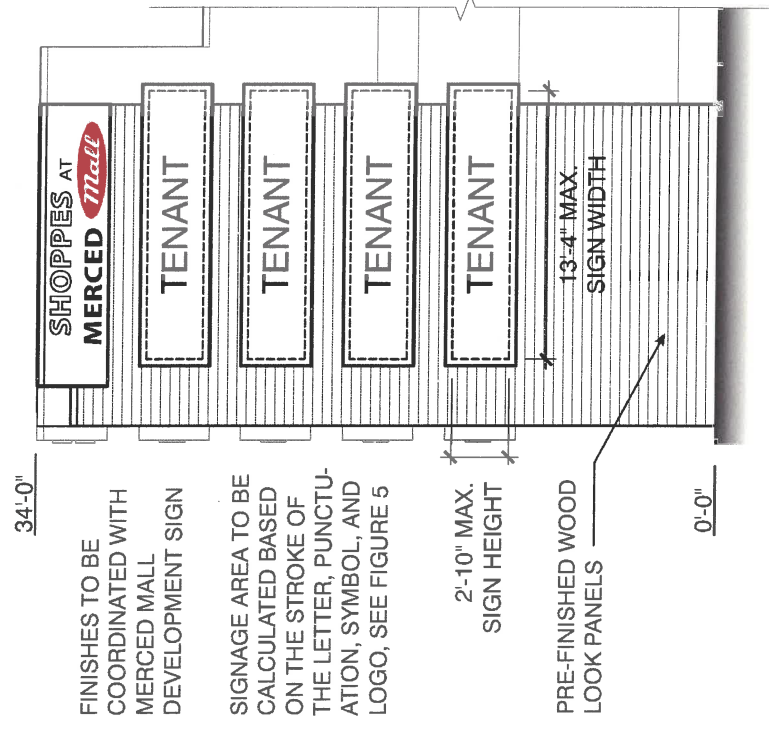


Figure 4 **P1** W Olive Ave Elevation

## Tenant Wall Mounted Signs

- Wall mounted signs to consist of internally illuminated individual channel letters.
- Raceways and box signs are not permitted.
- Sign canisters may be allowed for tenant logos only when any such logo constitutes a registered trademark. The area of the actual sign canister must be calculated and included as part of the overall wall mounted sign area calculation.
- Architectural background panels that are non-illuminated are allowable and will not be calculated as part of the wall sign area.
- Signs not visible from the public right of way are not counted as

## TENANT SIGNS

### Calculating Wall Mounted Sign Area

- Calculated based on the stroke of each letter, punctuation symbol, and logo contained within the sign (see Figure 5.)

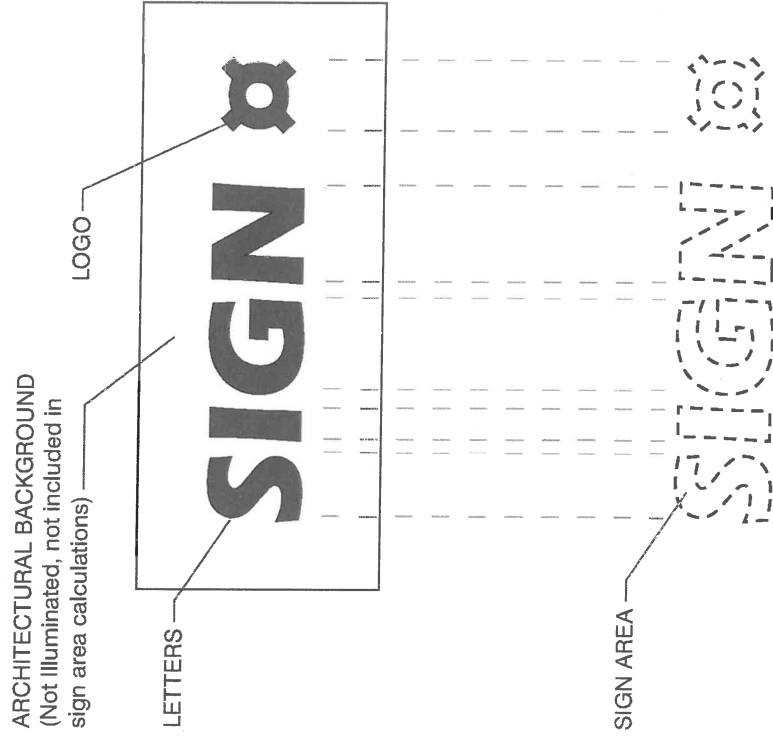


Figure 5

### Under Canopy Signs

- Each tenant is allowed one pedestrian oriented under canopy sign with a maximum area of four and a half square feet (4½ s.f.)
- Under canopy signs may be illuminated.
- A vertical clearance of 8'-6" must be maintained above pedestrian walkways, for under canopy signs that project from the tenants exterior wall or down from their canopy soffit.
- The area of the under canopy sign does not count towards the tenant's total allowed signage.

### Awning Signs

- Where awnings have been provided on the building, tenants are able to apply graphics, including the tenant's name on the awning valance. The maximum height of the letters shall be six inches (6"). The tenants name should be limited in width to 2/3 the linear length of the awning valance.
- The area of the stroke of each letter, punctuation, symbol, or logo to be calculated as part of the total allowable signage. See figure 6, sign chart.

### Miscellaneous Tenant Building Signage

- Each tenant shall be permitted to place upon each entrance of its store (inside storefront glass) not more than 144 square inches of decal application lettering. Maximum height of the lettering to be two inches (2"). Lettering limited to indicating store hours of business.
- Permanent Banners, insignias, and trademarks located on the exterior of the tenant space shall be allowed after receiving written approval of the Landlord and meet the following requirements:
  1. Located below the bottom of the tenant's entrance canopy
  2. Cannot project more than one and one-half inches (1½") from the wall of the tenants space
  3. The square footage to be inclusive of the tenants overall allowable sign square footage
- Temporary banners must be in compliance with City codes and requires Landlord approval prior to submitting an application to the City.
- Window signs must be non-illuminated (except "open/closed" signs) and shall not exceed 25% of tenants window area. Window signs shall not be counted toward the sign area permitted.
- Receiving doors may have two inch (2") high block lettering identifying the Tenant's Name. Landlord shall install addresses above the door in six inch (6") high block letters. Letters shall be black and applied directly to the door. White or other background colors are not allowed.
- Landlord shall install address numbers for each building on the wall facing the addressed street, twelve (12") inches clear to the parapet or cornice and top-right of the wall. Font to be Helvetica Regular, height to be six inches (6"), securely mounted to the wall and approved by the Building and Fire Departments.

### Signage Design, Materials, Attachments

- Creativity and quality are encouraged in the design of tenant signs. Sign design will be evaluated on the basis of compatibility with the overall project architectural theme. All sign colors, lettering styles, graphics treatments and mounting attachments will be considered. Final design and size of signs will be at the discretion of the Landlord and must be approved by the City.
- Letter fastening and clips are to be concealed made of one of the following materials: stainless steel, aluminum, brass or bronze. Dialectic separation to be provided between any dissimilar metals.

# Shoppes at Merced Mall

## SIGN AREA CHART

Sign Area Chart

Tenant	Olive Ave. Frontage (Feet)	Olive Ave. Setback (Feet)	R Street Frontage (Feet)	R Street Setback(Feet)	Allowable sign Area (S.F.)	Allowable Area w/Admin. Conditional Use Permit (S.F.)
A	67.92	362	59.25	291.67	49	98
B	36.33	362			42	84
C	26	362			39	78
D	52	362			45	90
E			183.67	299	65	130
F			63.08	305.17	54	108
G			130.17	309	73.5	147
H			78.75	312.08	57.5	115

Notes:

- An Administrative Conditional Use Permit allows for a 50% increase in the allowable sign area for each tenant suite.
- Letters that compose the total signage shall be measured based on the actual stroke of the letter, refer to Figure 5.
- Signs **NOT** Visible from the Public right of way are not counted as part of the total allowed signage.
- Sign Area - All inclusive. Total maximum sign area for each tenant or building (see chart above) includes signage on the wall mounted development sign, but does not include under canopy signs.



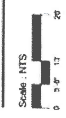


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 Cleveland, Ohio 44131  
 T 216.526.1155 F 216.526.1567  
 mg@graficaur.com

**MERCED MALL - MERCED, CA - RENDERING**  
**SERITAGE GROWTH PROPERTIES**

50 FIFTH AVE, 15TH FLOOR  
 NEW YORK, NEW YORK

RENDERING



DATE: \_\_\_\_\_  
 NO. \_\_\_\_\_  
 SHEET NO. \_\_\_\_\_

PROJECT: \_\_\_\_\_  
 LOCATION: \_\_\_\_\_  
 CLIENT: \_\_\_\_\_

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[SLahijani@seritage.com](mailto:SLahijani@seritage.com)

October 3, 2019

**VIA OVERNIGHT COURIER**

Francisco Mendoza-Gonzalez  
City of Merced  
678 West 18th Street  
Merced, CA 95340

RE: 1011 W. Olive ACUP Application

Dear Francisco:

I have enclosed a completed ACUP sign application, including our Master Sign Program materials, and the \$641 application fee for Seritage's proposed sign program for 1011 W. Olive Avenue.

We appreciate your assistance in processing our application. We understand our 34' corner wall sign, along with our individual tenant signs, will be considered as part of the enclosed application. We also understand that given the prominence of the corner wall sign, staff will recommend that any approval of our application be conditioned on no freestanding shopping signs being permitted on our parcel. We are supportive of a condition to that effect and propose the following language for your consideration:

*In accordance with Municipal Code Section 17.36.780, the Planning Commission finds that due to the visual prominence of the 34' corner wall sign, in order to maintain the compatibility of shopping center's signage with surrounding uses, no freestanding shopping center signs shall be permitted on the 1011 W. Olive Avenue parcel (APN 236-220-031-000) under Municipal Code Section 17.36.667.*

Also, please let me know if you have any questions regarding our application or if we can provide any additional information to help your review.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sean Lahijani", written over a printed name label.

Sean Lahijani

**NYSE: SRG**

**ATTACHMENT D**

**NOTICE OF EXEMPTION**

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

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

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

**Project Title:** ACUP #AS-229 (Environmental Review #19-32)

**Project Applicant:** Seritage SRC Finance, LLC

**Project Location (Specific):** 1011 W. Olive Ave. **APN:** 236-220-031

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

**Description of Nature, Purpose, and Beneficiaries of Project:**

**Name of Public Agency Approving Project:** City of Merced

**Name of Person or Agency Carrying Out Project:** Seritage SRC Finance, LLC

**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: 15301 (a)
- Statutory Exemptions. State Code Number: \_\_\_\_\_.
- General Rule (Sec. 15061 (b)(3))

**Reasons why Project is Exempt:** As defined under the above referenced Section, the proposed project consists of minor exterior alterations, such as installing signs to a commercial building, which are considered to be exempt under the CEQA Guidelines per Section 15301 (a).

**Lead Agency:** City of Merced

**Contact Person:** Francisco Mendoza-Gonzalez **Area Code/Telephone:** (209) 385-6858

**Signature:**  **Date:** 10-15-2019 **Title:** Planner

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

Authority Cited: Sections 21083 and 21110. Public Resources Code  
Reference: Sections 21108, 21152, and 21152.1. Public Resources Code

**CITY OF MERCED**  
**Planning Commission**

**Resolution #\_\_\_\_\_**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of November 6, 2019, held a public hearing and considered **Administrative Conditional Use Permit #AS-229**, initiated by Seritage SRC Finance, LLC, property owners. This application involves consideration of a Comprehensive Sign Package (including additional wall mounted signage and a 34-foot-tall corner wall sign) for the new commercial suites at 1011 W. Olive Avenue. The site is generally located on the east side of R Street, approximately 1,100 feet north of Olive Avenue, within Planned Development (P-D) #1, with a Regional/Community Commercial (RC) General Plan designation; also known as Assessor's Parcel Number (APN) 236-220-031; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings/Considerations A through G of Staff Report #19-28 (Exhibit B); and,

**WHEREAS**, the Merced City Planning Commission concurs with the Findings for Approval for Conditional Use Permits in Merced Municipal Code Section 20.68.020 (F) and other Considerations as outlined in Exhibit B; 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 adopt a Categorical Exemption regarding Environmental Review #19-32, and approve Administrative Conditional Use Permit #AS-229, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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)

Adopted this 6<sup>th</sup> day of November 2019

\_\_\_\_\_  
Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:

\_\_\_\_\_  
Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Staff Report #19-28 (Including Findings and Considerations)

**Conditions of Approval**  
**Planning Commission Resolution # \_\_\_\_\_**  
**Administrative Conditional Use Permit #AS-229**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (Master Sign Program), - Attachment B of Staff Report #19-28, except as modified by the conditions.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
3. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
4. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
5. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws

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and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

6. All signs shall comply with the North Merced Sign Ordinance. No temporary freestanding or moveable signs shall be allowed.
7. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
8. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
9. The 34-foot-tall corner wall sign is considered to be this site's "Freestanding Shopping Center" sign as defined in MMC 17.36.667 and no additional shopping center signs can be approved. Monument signs may be considered for this site as allowed by the Merced Municipal Code.
10. Final approval of each individual sign shall require a sign permit and approval by the Development Services Department

# **EXHIBIT B**

## **Planning Commission Staff Report #19-28**