

BOARD OF ZONING ADJUSTMENT  
RESOLUTION NO. 2021-02

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO UNITED SIGN SYSTEMS ON BEHALF OF BIG VALLEY GRACE COMMUNITY CHURCH FOR A NEW FREESTANDING ELECTRONIC MESSAGE BOARD SIGN LOCATED AT 4040 TULLY ROAD

WHEREAS, an application for a Conditional Use Permit for a new freestanding electronic message board sign located at 4040 Tully Road, was filed by United Sign Systems on behalf of Big Valley Grace Church on January 6, 2021; and

WHEREAS, Section 10-6.108(f) of the Modesto Municipal Code allows electronic message boards for churches located on arterial streets with approval of a conditional use permit by the Board of Zoning Adjustment; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on March 25, 2021, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the project is Categorically Exempt from CEQA 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 (Zoning Regulations) because the Code allows for electronic message board signs for churches where located on an arterial street or expressway, with a conditional use permit.
2. The proposed conditional use and the conditions under which it will operate is consistent with the General Plan because the use for which the sign would identify is consistent with the Residential (R) land use designation 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 because the electronic sign will be required to meet all applicable Zoning and Building Codes.
4. The proposed conditions of approval will ensure compatibility with the surrounding uses because the electronic sign will be required to operate in accordance to the City's Zoning Code which regulates electronic sign placement and sets limitations for message movement, transition, duration and brightness.
5. The proposed project is exempt from CEQA under Sections 15311(a) of the CEQA Guidelines which exempts on-premise signs that are consistent with the Modesto Urban Area General Plan.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for a new freestanding electronic message board sign located at 4040 Tully Road be granted subject to the following conditions:

1. All development shall conform to the plans from United Sign Systems Labeled "Big Valley Grace Community Church" as revised on January 28, 2021, and stamped and approved by the Board of Zoning Adjustment on March 25, 2021.
2. The electronic sign shall be located and operated in conformance to all requirements and limitations outlined in Section 10-6.108(f)(1)(ii) of the Modesto Municipal Code.
3. No portion of the freestanding sign and its electronic message board component shall encroach into the public right of way without the issuance of a special encroachment permit from the City in accordance to Section 10-6.106(e)(2) of the Modesto Municipal Code.
4. At no time shall the electronic message board display video as defined by Section 10-6.102(ccc), Video Display Sign.
5. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the City Engineer or designee.
6. The property owner and developer shall, at their sole expense, defend, with counsel selected by the City, 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.

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 March 25, 2021, 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.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on 25<sup>th</sup> of March, 2021, by Board Member Roddick, who moved its adoption, which motion was seconded by Board Member Rodriguez and carried by the following vote:

Ayes:	Blom, Desai, Roddick, Rodriguez, Vohra, Goriel
Noes:	Yare
Absent:	None
Recused:	None

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

Original, signed copy on file in CEDD  
Steve Mitchell, Secretary