

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2015-03

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR A THIRTEEN-FOOT ONE-INCH HIGH FREESTANDING SIGN WITH ELECTRONIC MESSAGE BOARDS IDENTIFYING THE BIG VALLEY GRACE HIGH SCHOOL AND CHURCH, LOCATED AT 1020 PELANDALE AVENUE (BIG VALLEY GRACE)

WHEREAS, an application for a Conditional Use Permit to replace the existing freestanding sign identifying the Big Valley Grace High School, located on the Pelandale Avenue frontage west of Tully Road, at 1020 Pelandale Avenue, with a 13.1-foot high freestanding sign of no more than 72-square-feet per sign face, each face containing color-LED electronic message boards of no more than 40-square feet per sign face, was filed by Big Valley Grace on July 7, 2015; and

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

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on August 27, 2015, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the project is Categorical 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 freestanding identification signs and electronic message board signs for high schools of more than 20 acres where located on an arterial street or expressway.
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 Mixed Use 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 freestanding 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 freestanding 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 two-sided thirteen-foot one-inch high freestanding sign with electronic message boards on each sign face identifying the Big Valley Grace High School, located at 1020 Pelandale Avenue be granted subject to the following conditions:

1. The proposed sign shall conform to the plans titled "Big Valley Christian School" stamped and approved by the Board of Zoning Adjustment on August 27, 2015.
2. The proposed 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 for high school and church activities only.
3. At no time shall the color LED electronic message board display video as defined by Section 10-6.102(aaa), Video Display Sign.
4. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the City Engineer or designee.
5. 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 August 27, 2015, 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 August 27, 2015, by Hank Pollard, who moved its adoption, which motion was seconded by Robert Selover and carried by the following vote:

Ayes:	Bergman, Morris, Pollard, Rodriguez, Selover, Smith
Noes:	None
Absent:	Matas
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